



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. The hearing was conducted by conference call. The landlord's representative participated. Although he was [personally served with the Application for Dispute Resolution and Notice of Hearing on February 13, 2011 the tenant did not call in or participate in the hearing.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Is the landlord entitled to an order allowing retention of the security deposit?

Background and Evidence

This tenancy began on December 1, 2009. The rent is \$1,200.00 due in advance on the first day of each month. A security deposit of \$600.00 was paid by the tenant on October 28, 2009. The tenant was personally served with a Notice to End Tenancy for non-payment of rent by the landlord's representative on February 3, 2011. . The tenant has not paid the outstanding rent and did not file an application to dispute the Notice. The tenant has not paid the full rent due since August, 2010. He paid no rent for September, October or November. The tenant paid \$1,000.00 in two instalments in December and he paid \$375.00 in February, 2011.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

Order of Possession - Based on the above background, evidence and analysis I find that the landlord is entitled to an order of possession effective two days after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

Monetary Order and Security Deposit – The tenant has paid a total of \$1,375.00 on account of rent in the amount of \$7,200.00 due over the six month period from September, 2010 to and including February, 2011. I find that the landlord has established a total monetary claim of \$5,875.00, including the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the deposit and interest of \$600.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$5,275.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated: February 22, 2011.
