



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession, a monetary order for unpaid rent, an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee.

Although served with the Application for Dispute Resolution and Notice of Hearing in person on February 16, 2011, the Tenant did not appear.

The Landlord's Agent appeared, gave affirmed testimony and was provided the opportunity to present her evidence orally and in written and documentary form, and make submissions to me.

Issue(s) to be Decided

Has the Tenant breached the *Residential Tenancy Act* (the "Act") or tenancy agreement, entitling the Landlord to an Order of Possession and monetary relief?

Background and Evidence

The evidence and testimony of the Landlord's Agent supports that the Tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") on February 2, 2011.

The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenant had five days to dispute the Notice. I note the effective date indicated on the Notice is ineffective and automatically corrects under the Act to February 15, 2011.

The Landlord testified that the monthly rent is \$850.00, that the Tenant made a partial payment of \$334.00 in January 2011 and did not pay rent in February 2011. The Landlord testified that the current unpaid rent is \$1,366.00.

Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

I find the Tenant has not paid the outstanding rent owed to the Landlord and failed to apply to dispute the Notice, and therefore, is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice, on September 15, 2010.

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.

I find that the Landlord has established a total monetary claim of **\$1,416.00** comprised of unpaid rent of \$1,366.00 and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord retain the deposit of **\$425.00** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$991.00**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

I have not allowed the Landlord's claim for the March 2011 rent as the same is not yet due and payable and the Landlord has not suffered that loss as of the day of the hearing. However, the Landlord is at liberty to make Application when and if this occurs.

Conclusion

The Tenant failed to pay rent and did not apply to dispute the Notice to End Tenancy. The Tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy.

The Landlord is granted an Order of Possession and a monetary order for the balance due of **\$991.00**.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: February 28, 2011.

Residential Tenancy Branch