



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR, MNSD

Introduction

This hearing was convened in response to an application by the landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing.

The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on April 1, 1999. Rent in the amount of \$940.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected a security deposit from the tenant in the amount of \$400.00. The Tenant failed to pay rent For February 2011 and on February 18, 2011 the Landlord served the tenant

with a notice to end tenancy for non-payment of rent. The Tenant did not pay the rent owed and moved out of the rental unit on February 28, 2011. Information on file indicates that the Tenant did not file an application to dispute the Notice. The quantum of the landlord's monetary claim is **\$940.00**.

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 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.

Based on the Landlord's testimony I find that the Tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The Tenant has not paid the outstanding rent and has not applied for Dispute Resolution to dispute the notice. The Tenant is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice.

As the Tenant has moved out of the rental unit, the Landlord no longer requires an Order of Possession and accordingly, I dismiss that part of the application.

I also find that the Landlord has established a monetary claim for **\$940.00** in unpaid rent.

The **security deposit** will be off-set from the award made herein.

Calculation for Monetary Order

Rental Arrears	\$940.00
Less Security Deposit and interest <i>to date</i>	442.51
Total Monetary Award	\$497.49

Conclusion

I order that the Landlord retain the **deposit** and interest of \$442.51 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$497.49**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

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: March 10, 2011.

Residential Tenancy Branch