



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

Some documentary evidence and written arguments has been submitted prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the applicant the opportunity to testify at the hearing.

The respondent was served with notice of the hearing by registered mail that was mailed on February 23, 2011, but did not join the conference call that was set up for the hearing.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is a request for an Order of Possession based on a Notice to End Tenancy for nonpayment rent, a request for a monetary order for \$5,000.00, a request to retain the full security deposit of \$1000.00, and a request for recovery of the \$50.00 filing fee.

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on February 1, 2009 for a tenancy beginning February 1, 2009 for the monthly rent of \$2000.00 due on 1st of the month; and

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, February 10, 2011 with an effective vacancy date of February 20, 2011 due to \$4000.00 in unpaid rent.

The landlord testified that the tenant(s) had failed to pay rent outstanding totaling \$4000.00 to the end of February 2011, and that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent which was posted on the door of the tenant's rental unit on February 10, 2011 and therefore is deemed served three days later.

The Notice states that the tenant(s) had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant(s) did not apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all the evidence and testimony, and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant(s) on February 13, 2011 and the effective date of the notice is amended to February 23, 2011 pursuant to section 53 of the *Act*. I accept the evidence before me that the tenant has failed to pay the rent owed within the 5 days granted under section 46 (4) of the *Act*, and now a further \$2000.00 is outstanding for March 2011 rent.

Based on the foregoing, I find that the tenant is conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

I find that the landlord is entitled to an Order of Possession effective **two days after service on the tenant(s)**. This order must be served on the tenant(s) and may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord is entitled to monetary compensation pursuant section 67 in the amount of \$6,050.00 comprised rent outstanding to the end of March 2011 plus the \$50.00 filing fee. I therefore order that the landlord may retain the full security deposit of \$1000.00 and I have issued a monetary order in the amount of \$5,050.00.

This order must be served on the tenant(s) and may be filed in the Provincial Court (Small Claims) 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 08, 2011.

Residential Tenancy Branch