



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR, 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 and to recover the filing fee.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail on March 28, 2011, the Tenant did not appear. The Landlord provided evidence of the registered mail receipt with tracking number as proof of service.

The Landlord's Agent appeared, gave affirmed testimony and was provided the opportunity to present his 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

This 12 month, fixed term tenancy began on May 1, 2010, monthly rent is \$1,150.00 and a security deposit of \$575.00 was paid by the Tenant on April 16, 2010.

The Landlord's Agent gave affirmed testimony and supplied evidence that the Tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") on March 11, 2011, by posting on the door. The Notice stated the amount of unpaid rent was \$1,150.00 and the effective move out date was March 21, 2011.

Under Section 53 of the *Residential Tenancy Act* (the "Act"), if the effective date listed on a notice to end tenancy does not comply with the Act, the date automatically corrects to the earliest date that complies with the Act, which in this case is March 24, 2011.

The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained the Tenant had five days to dispute the Notice.

I have no evidence before me that the Tenant applied to dispute the Notice. The Landlord provided evidence and gave affirmed testimony that the Tenant made no payment of rent since the issuance of the Notice, and currently owes the amount of \$2,300.00, which includes rent for April 2011.

Analysis

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

The Tenant has not paid the outstanding rent and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

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 **\$2,350.00.00** comprised of outstanding rent of **\$2,300.00** and the **\$50.00** fee paid by the Landlord for this application.

I allow the Landlord to retain the deposit of \$575.00 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$1,775.00**.

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

Conclusion

The Landlord is granted an Order of Possession, may keep the security deposit and interest in partial satisfaction of the claim and is granted a monetary order for the balance due of **\$1,775.00**.

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: April 14, 2011.

Residential Tenancy Branch