



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 for the Application.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

Issue(s) to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlord to an Order of Possession and monetary relief?

Background and Evidence

Based on the testimony of both parties, I find that the Tenant was served with a Notice to End Tenancy for non-payment of rent on March 7, 2011 by personal delivery.

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. The amount due on March 7, 2011, was \$1,020.00 in unpaid rent.

The Tenant did not apply to dispute the Notice. The Tenant also did not pay all the rent for April of 2011, however, a payment of \$100.00 was received.

Analysis

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

The Tenant has not paid all 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 and a monetary order.

However, the Agent for the Landlord consented that the Landlord would be willing to withhold enforcement of the order for possession on the condition that the Tenant pay to the Landlord no later than 4:00 pm on April 14, 2011, the total amount of **\$1,580.00**.

The amount due is comprised of the following: outstanding rent for February, March and April in the amount of \$1,630.00, plus the \$50.00 filing fee in respect of this application, *less \$100.00 paid*, totalling **\$1,580.00**.

(I find that the Tenant has also not paid rent for April of 2011, and the Landlord will suffer a loss of rent for the month. Therefore, under section 64 of the Act I have allowed the Landlord's claim to be amended to include one additional month of rent.)

If the \$1,580.00 is not paid by 4:00 pm on April 14, 2011, then the Landlord is entitled to enforce the order for possession. A formal order has been issued and may be filed in the Supreme Court and enforced as an order of that Court.

As for the monetary claim, if payment is not received by the above mentioned time and date, I find that the Landlord has established a claim of \$1,580.00, and I order that the Landlord retain the deposit of \$305.00 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$1,275.00**. This order may be filed in the Small Claims Court and enforced as an order of that Court.

If the Tenant makes the payment as described above then the orders are voided and the tenancy will be reinstated and must end in accordance with the Act.

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