



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, OPR, filing fee for the Application

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession based upon unpaid rent, 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 for the Application.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail, sent on July 11, 2011, and deemed under the Act to be received five days later, the Tenant did not appear. I find the Tenant has been duly served in accordance with the Act.

Two Agents for the Landlord appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to 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 affirmed testimony of the Agent for the Landlord, I find that the Tenant was served with a Notice to End Tenancy for non-payment of rent in person on June 20, 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.

The testimony of the Agents was that the Tenant has not paid rent for June, July and August of 2011.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find 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 note the Notice had an incorrect effective date of June 20, 2011, and therefore, under section 53 of the Act, the effective date of the Notice automatically corrected to June 30, 2011.

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 Tenant has also not paid rent for August of 2011, and the Landlord will suffer a loss of rent for the month. Therefore, under section 64 of the Act I allow the Landlord's claim to be amended to include one additional month of rent.

I find that the Landlord has established a total monetary claim of \$2,630.00 comprised of \$860.00 in rent for each of June, July and August of 2011, and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord retain the deposit and interest of \$362.40, in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$2,267.60**.

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

This decision is final and binding on the parties except as otherwise provided for under the Act, and 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: August 08, 2011.

Residential Tenancy Branch