

Decision

Dispute Codes:

MNR, OPR, OPC, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on the Notice to End Tenancy for Unpaid Rent dated September 5, 2011, a monetary order for rent owed and an order to retain the security deposit in partial satisfaction of the claim. The landlord was also seeking an order of possession based on a One Month Notice to End Tenancy for Cause. The landlord is also claiming compensation for damages to the unit.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on September 19, 2011, the tenant did not appear.

Preliminary Matter

As the tenant has not vacated the rental unit and the move out condition inspection report has not yet been conducted, I find that the landlord's claim for compensation for the repairs is premature. Under the Act, the tenant must be given the opportunity to restore the unit and repair any damage done. Accordingly, the portion of this application relating to claims for monetary compensation for damage to the unit must be dismissed with leave to reapply after the unit has been inspected at the end of the tenancy.

Issue(s) to be Decided

The remaining issues to be determined based on the testimony and the evidence are:

Whether or not the landlord is entitled to an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent

Whether or not the landlord is entitled to monetary compensation for rental arrears owed and loss of rent

Background and Evidence

The landlord submitted into evidence a copy of the 10-Day Notice to End Tenancy dated September 5, 2011.

The landlord testified that the tenancy began in May 2006, at which time the tenant paid a security deposit of \$237.50. The landlord testified that the tenant failed to pay all of the rent owed each month for 6 months including May, June, July, August, September and October 2011. The landlord testified that there was a shortfall of \$200.00 each month totaling \$1,200.00. The landlord testified that a temporary room-mate had contributed \$345.00 in June 2011, but she vacated shortly thereafter and was refunded \$50.00 of that payment.

The landlord testified that the tenant has not vacated the unit and the landlord has requested an Order of Possession in addition to the monetary order for the rent still owed.

Analysis

Based on the testimony of the landlord, I find that the tenant was served with a Notice to End Tenancy for Unpaid Rent by posting it on the door. The tenant has not paid the arrears 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. Based on the above facts I find that the landlord is entitled to an Order of Possession.

I find that the landlord has established a total monetary claim of \$960.00 comprised of \$910.00 accrued rental arrears and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the security deposit and interest of \$245.51 in partial satisfaction of the claim leaving a balance due of \$714.49.

Conclusion

I hereby issue an Order of Possession in favour of the landlord effective two days after service on the tenant. This order must be served on the Respondent and is final and binding. If necessary it may be filed in the Supreme Court and enforced as an order of that Court.

I hereby grant the Landlord an order under section 67 for \$714.49. This order must be served on the Respondent and is final and binding. If necessary it 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: October 17, 2011.

Residential Tenancy Branch

