



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OP MNR MNSD FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. The hearing was conducted by conference call. The landlord and the tenant called in and participated in the hearing.

Issues

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Is the landlord entitled to an order allowing retention of the security deposit?

Background and Evidence

This tenancy began on June 1, 2011. The rent is \$850.00 due in advance on the first day of each month. The tenant paid a security deposit of \$425.00 at the start of the tenancy. The tenant did not pay the full rent for August when it was due.. On August 16, 2011 the landlord personally served the tenant with a Notice to End Tenancy for non-payment of rent. The tenant paid the landlord \$200.00 before he received the Notice to End Tenancy. After he received the Notice to End Tenancy the tenant gave the landlord a further \$210.00. The tenant has not paid rent for September or for October and he did not file an application to dispute the Notice to End Tenancy.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

The tenant acknowledged that he owes the outstanding rent. The tenant testified that he became unemployed and had difficulty obtaining payment of his employment insurance benefits. He said that he has explained the situation to the landlord and the landlord has acted improperly by preventing access to the laundry facilities, by causing his upstairs tenants to place a radio so as to play constantly above his sleeping quarters and by making incessant visits demanding rent.

Conclusion

Order of Possession - Based on the above background, evidence and analysis 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.

Monetary Order and Security Deposit - I find that the landlord has established a total monetary claim of \$1,290.00 for the outstanding rent for August and September. I award the landlord loss of revenue for the first two weeks of October in the amount of \$425.00 for a total award of \$1,715.00. I accept the tenant's evidence that the landlord has acted to restrict his access to laundry facilities and has acted to interfere with the tenant's quiet enjoyment of the rental property without any order permitting him to do so. Because the landlord has used inappropriate self-help remedies I decline to award the landlord the \$50.00 filing fee for this application. I order that the landlord retain the deposit and interest of \$425.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1,290.00. This order may be filed in the Small Claims Court 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 05, 2011.

Residential Tenancy Branch