



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent / loss of revenue - Section 67;
3. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on November 1, 2010. Rent in the amount of \$1,250.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$625.00. The Tenant failed to pay rent for the month of October 2011 and on October 2, 2011 the Landlord served the Tenant with a notice to end tenancy for non-payment of rent by posting the notice on the door. The Tenant moved out of the unit at an unknown date but at least

by the end of October 2011 and did not file an Application for Dispute Resolution. The Landlord claims unpaid rent for October and November 2011. The Landlord no longer requires an Order of Possession as the Tenant has moved out of the unit.

Analysis

Section 44 of the Act sets out when a tenancy will end. Where a Landlord has elected to end a tenancy because of non-payment of rent, a tenant is not liable to pay rent after the tenancy agreement has ended pursuant to that section. If however, the tenant remains in possession of the premises, the tenant will be liable to pay occupation rent on a per diem basis until the landlord recovers possession of the premises. The Landlord in this case has elected to end the tenancy agreement for non-payment of rent by serving a 10 day notice to end tenancy with a move-out date of October 12, 2011. It is unknown when the Tenant moved out but the Landlord obtained possession of the unit by October 31, 2011. I find therefore that the Landlord is entitled to the amount of \$1,250.00 for October 2011 unpaid rent. The Landlord is also entitled to recovery of the \$50 filing fee, for a total entitlement of **\$1,300.00**. The **security deposit** plus interest in the amount of \$625.00 is set-off from this entitlement, leaving the amount of **\$675.00** owing from the Tenant to the Landlord.

Conclusion

I order that the Landlord retain the **deposit** and interest of \$625.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$675.00**. If necessary, 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: November 14, 2011.

Residential Tenancy Branch