



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 for possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. Although served with the Application for Dispute Resolution and Notice of Hearing in person on September 13, 2011 the tenant did not appear.

Issues

Is the landlord entitled to the requested orders?

Background and Evidence

This tenancy began on February 15, 2011. The rent is \$650.00 due in advance on the first day of each month. A security deposit of \$325.00 and a pet damage deposit of \$325.00 were paid at the start of the tenancy. On August 22, 2011 the tenant was served with a Notice to End Tenancy for non-payment of rent. The tenant did not pay the outstanding rent or file an application to dispute the Notice within five days of receiving the Notice.

Ms. Jamieson testified that the rent is still in arrears by \$612.00.

Analysis

Order for Possession - 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. Accordingly, the landlord is entitled to an order of possession.

Rent and Lost Income – The tenant is obligated to pay the rent on the day that it is due. In this case, the full rent for October was due on October 1, 2011 but remains in arrears

by \$612.00. As a result, the landlord is entitled to a monetary order against the tenant for that amount.

Conclusion

I find that the landlord is entitled to an order for 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 landlord has established a total monetary claim of \$662.00 comprised of \$612.00 in unpaid rent and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the security and pet damage deposits of \$650.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$12.00. 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*.
