



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. The landlord also seeks recovery of the filing fee for this application. Although served with the Application for Dispute Resolution and Notice of Hearing in person on September 26, 2011 the tenants did not appear.

Issues

Is the landlord entitled to the requested orders?

Background and Evidence

This tenancy began on April 1, 2009. The rent is \$650.00 due in advance on the first day of each month. A security deposit of \$325.00 was paid at the start of the tenancy. On September 13, 2011 the tenants were served with a Notice to End Tenancy for non-payment of rent. The tenants have not paid the outstanding rent and did not file an application to dispute the Notice.

Ms. D testified that some rent has been paid since the filing of the application but the rent is still in arrears in the amount of \$932.00. Ms. D also seeks the \$25.00 late fee that is stipulated in the tenancy agreement.

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 and the landlord is entitled to an order of possession.

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 \$1,007.50 comprised of \$932.00 in unpaid rent, a \$25.00 late fee and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the deposit and interest of \$325.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$682.50. 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*.