



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlords for an order of possession, a monetary order for unpaid rent and an order to recover the filing fee for the Application.

Although served with the Application for Dispute Resolution and Notice of Hearing in person on November 8, 2011, the Tenant did not appear. I find the Tenant has been duly served under the Act.

One of the Landlords appeared, gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

Issue(s) to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlord to an Order of Possession and monetary relief?

Background and Evidence

Based on the affirmed testimony of the Landlord, I find that the Tenant was served with a Notice to End Tenancy for non-payment of rent on September 20, 2011, by personal service. The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenant had five days to dispute the Notice.

The Landlord testified that the Tenant had not paid all the rent that is due, and there is no evidence she filed an Application to dispute the Notice.

The Landlord testified that the Tenant gave a Notice to End Tenancy in writing, and a copy of that notice was in evidence. The Tenant states in her notice that she will vacate the rental unit no later than October 26, 2011.

The Landlord testified that the Tenant had removed some of her property but still had some items in the rental unit.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The Tenant has not paid the outstanding rent 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, that is September 30, 2011.

Furthermore, the Tenant gave a notice to end tenancy to the Landlord which was to be effective on October 26, 2011, yet she has still not removed all her property from the rental unit. I note that the Tenant may not withdraw a notice to end tenancy once it is given.

Therefore, 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 using a bailiff to remove the Tenant.

I also find that the Landlord has established a total monetary claim of \$1,550.00 comprised of rent owed to the Landlord and the \$50.00 fee paid by the Landlord for this application.

I allow the Application to be amended to include a claim against the security deposit and I order that the Landlord retain the deposit of \$300.00 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$1,250.00**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

The Landlords may make a further Application for a monetary order for damage to the rental unit.

This decision is final and binding on the parties, except as provided under the Act and 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 24, 2011.

Residential Tenancy Branch