



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNR, OLC, OPR, MNR, MNDC, MNSD, FF

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties.

The Tenant applied for more time to make her Application, to cancel a Notice to End Tenancy for unpaid rent, and for an order for the Landlord to comply with the Act or Tenancy Agreement.

The Landlord filed for an order of possession based on unpaid rent, a monetary order for unpaid rent, an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

The Tenant had filed her own Application on November 21, 2011, and was provided a Notice of Hearing at that time. The Landlord's Agent served the Tenant with the Landlord's Application for Dispute Resolution and Notice of Hearing in person on November 28, 2011, which was joined with the Tenant's Application to be heard at the same time. Despite this, the Tenant did not appear at the hearing. I find that the Tenant has been duly served under the Act with the Landlord's Application.

An Agent for the Landlord 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.

Since the Tenant did not appear at the hearing and the Agent for the Landlord did, the Tenant's Application is dismissed without leave to reapply.

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 Agent for the Landlord, I find that the Tenant was served with a Notice to End Tenancy for non-payment of rent on November 11, 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 Tenant made an Application to dispute the Notice, however, her Application was late.

The Agent testified that the Tenant failed to pay \$100.00 in rent for October, \$400.00 for November and \$400.00 for December of 2011.

The Agent testified that the Tenant may have left the rental unit on December 17 or 18, 2011, but the Agent was not sure.

Analysis

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

The Tenant has not paid outstanding rent totalling \$900.00, and her Application to dispute the Notice is dismissed.

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.

I find that the Landlord has established a total monetary claim of \$950.00 comprised of \$100.00 in rent for October, \$400.00 for November and \$400.00 for December of 2011 and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord retain the deposit of \$200.00 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$750.00**.

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

This decision is final and binding on the parties, except as otherwise 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: December 19, 2011.

Residential Tenancy Branch