



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, MNSD, OPR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary order for unpaid rent?

Is the landlord entitled to retain the security deposit?

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. The tenant has not paid all 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. The tenant vacated the rental unit on December 16, 2011.

Analysis

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

Although the landlord is entitled to an order of possession in these circumstances, the tenants have vacated the rental unit and therefore, an order of possession is no longer required.

I find that the tenant has failed to pay rent under the Act and tenancy agreement.

I find the landlord has established a total monetary claim of **\$650.00** comprised of the balance of rent owed and service fee, and the \$50.00 fee paid by the landlord for this

application. I order that the landlord retain the deposit and interest of **\$287.50** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$362.50**.

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

Conclusion

The tenants failed to pay rent and did not file to dispute the Notice to End Tenancy, and vacated the rental unit. Therefore, an order of possession is not required.

The landlords are granted a monetary order for rent due, and may keep the security deposit and interest, and have leave to apply for further monetary compensation.

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: January 09, 2012.

Residential Tenancy Branch