



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.

Although served with the Application for Dispute Resolution and Notice of Hearing in person on December 24, 2011, the tenant did not appear. I find that the tenant has been duly served in accordance with the Act.

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. 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 26, 2011.

The landlord testified that the tenant owes him \$1,200.00 in outstanding rent, \$400.00 for the November and \$800.00 for December 2011.

The landlord further testified that recently he received a cheque from the Ministry of Social Services in the amount of \$775.00 and is asking to apply that cheque to the outstanding rent owed and is seeking a monetary order in the \$425.00

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 tenant has 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 **\$475.00** comprised of the balance of rent owed for November and December, 2011, and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the deposit and interest of **\$400.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$75.00**.

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

The landlord has leave to apply for further monetary orders.

Conclusion

The tenant 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 landlord is granted a monetary order for rent due, and may keep the security deposit and interest, and has 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 11, 2012.

Residential Tenancy Branch