



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MND, MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's application for an Order of Possession for unpaid rent and a Monetary Order for damage to the rental unit; unpaid rent; and authorization to retain the tenant's security deposit. The tenant did not appear at the hearing. The landlord provided a registered mail receipt, including tracking number, showing the hearing documents were sent to the tenant via registered mail addressed to the rental unit on January 18, 2012. Having been satisfied the tenant has been sufficiently served with notice of this hearing I proceeded to hear from the landlord without the tenant present.

Issue(s) to be Decided

1. Has the landlord established an entitlement to an Order of Possession?
2. Has the landlord established an entitlement to compensation for damage to the rental unit?
3. Has the landlord established an entitlement to compensation for unpaid rent?
4. Is the landlord authorized to retain the tenant's security deposit?

Background and Evidence

The tenancy commenced April 2011 under a verbal tenancy agreement. The tenant paid a \$325.00 security deposit and is required to pay rent of \$650.00 on the 1st day of every month. The tenant paid only \$240.00 of the rent owed for December 2011 and did not pay rent for January 2012. On January 11, 2012 the landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) indicating rent of \$1,060.00 was outstanding as of January 1, 2012 and a stated vacancy date of January 21, 2012. The landlord testified that his wife and son served the Notice upon the tenant personally on January 11, 2012. The tenant did not pay the outstanding rent and continues to reside in the rental unit.

With this application the landlord is seeking to recover the unpaid rent of \$1,060.00 from the tenant for December 2011 and January 2012 as well as anticipated loss of rent for February 2012.

With respect to damage to the rental unit the landlord stated he is uncertain as to whether the tenant has damaged the unit.

Provided as evidence for this proceeding was a copy of the 10 Day Notice.

Analysis

When a tenant receives a 10 Day Notice the tenant has five days to pay the outstanding rent to nullify the Notice or the tenant has five days to dispute the Notice by filing an Application for Dispute Resolution. If a tenant does not pay the outstanding rent or dispute the Notice within five days then, pursuant to section 46(5) of the Act, the tenant is conclusively presumed to have accepted the tenancy will end and must vacate the rental unit by the effective date of the Notice.

Since the tenant did not pay the outstanding rent or dispute the Notice I find the tenancy ended on January 21, 2012 and the landlord is entitled to regain possession of the rental unit. Provided with this decision is an Order of Possession effective two (2) days after service upon the tenant.

I find the landlord entitled to recover unpaid rent for December 2011 and January 2012 in the amount of \$1,060.00 as supported by the 10 Day Notice. Since awards are not made for anticipated losses I dismiss the landlord's claim for anticipated loss of rent for February 2012 and the landlord's claim for anticipated damage to the rental unit with leave to reapply.

I authorize the landlord to retain the tenant's security deposit in partial satisfaction of the rent owed the landlord. I also award the landlord the filing fee paid for this application.

In light of the above, the landlord is provided a Monetary Order calculated as follows:

Unpaid rent – December 2011	\$ 410.00
Unpaid rent – January 2012	650.00
Filing fee	50.00
Less: security deposit	<u>(325.00)</u>
Monetary Order	\$ 785.00

The landlord must serve the Monetary Order upon the tenant and may enforce it in Provincial Court (Small Claims) as necessary.

Conclusion

The landlord has been provided an Order of Possession effective two (2) days after service upon the tenant. The landlord has been authorized to retain the tenant's security deposit and has been provided a Monetary Order for the balance of \$785.00 to serve upon the tenant.

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 31, 2012.

Residential Tenancy Branch