



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

MNR, OPR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on the Notice to End Tenancy for Unpaid Rent dated January 2, 2012 and a monetary order for rent owed. The application was originally submitted for a Direct Request proceeding and the written material was considered, after which a decision was made on January 20, 2012 to refer the matter to a participatory hearing.

The participatory hearing was reconvened today and both parties appeared and gave testimony.

Issue(s) to be Decided

The issues to be determined based on the testimony and the evidence are:

Whether or not the landlord is entitled to an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent

Whether or not the landlord is entitled to monetary compensation for rental arrears owed.

Background and Evidence

The landlord submitted into evidence a copy of the 10-Day Notice to End Tenancy dated January 2, 2012 with effective date of January 11, 2012, a copy of an outstanding hydro bill for December and a copy of the tenancy agreement. The landlord testified that the tenancy began on October 31, 2011, with rent of \$925.00, at which time the tenant paid a security deposit of \$462.50. The landlord testified that the tenant failed to pay all of the rent for December 2011 and when the tenant failed to pay rent owed on January 1, 2012, a Ten Day Notice to End Tenancy for Unpaid Rent was issued on January 2, 2012. The landlord testified that the tenant subsequently paid rent owed for December, but did not pay \$925.00 owed for January 2012 and \$925.00 now owed for February 2012, amounting to a total of \$1,850.00. In addition \$45.37 was still owed for unpaid utilities, which is also being claimed. The landlord testified that the tenant has not vacated the unit and the landlord has requested an Order of Possession.

Analysis

Based on the testimony of the landlord, I find that the tenant was served with a Notice to End Tenancy for Unpaid Rent by posting it on the door. The tenant did not pay all of the arrears and did not apply to dispute the Notice within 5 days of receiving 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. Based on the above facts I find that the landlord is entitled to an Order of Possession pursuant to the Notice..

I find that the landlord has established a total monetary claim of \$1,945.37, comprised of \$1,850.00 accrued rental arrears, \$45.37 for hydro and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the security deposit of \$462.50.00 in partial satisfaction of the claim leaving a balance due of \$1,482.87.

Conclusion

I hereby issue an Order of Possession in favour of the landlord effective two days after service on the tenant. This order must be served on the Respondent and is final and binding. If necessary it may be filed in the Supreme Court and enforced as an order of that Court.

I hereby grant the Landlord a monetary order under section 67 for \$1,482.87. This order must be served on the Respondent and is final and binding. If necessary it may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

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: February 13, 2012.

Residential Tenancy Branch