



Dispute Resolution Services

Page: 1

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 based on a Notice to End Tenancy for 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.

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.

The Agent testified that the Tenant was served with the Application and Notice of Hearing by registered mail, sent on April 20, 2012. Under the Act, documents served in this manner are deemed served five days after mailing. Despite this the Tenant did not appear at the hearing. I find the Tenant has been duly served in accordance with the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

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, I find that the Tenant was served with a Notice to End Tenancy for non-payment of March rent on March 28, 2012, by posting on the door. The Agent also testified that the Tenant had not paid April 2012 rent.

The Tenant had not paid all the outstanding rent due 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.

According to the Agent, the Tenant vacated the rental unit on April 28, 2012.

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, the Landlord withdrew the request for an order of possession.

I find that the Tenant has failed to pay rent under the Act and tenancy agreement for March and April of 2012.

I find the Landlord has established a total monetary claim of **\$4,150.00** comprised of the rent owed for March and April of 2012 and the \$50.00 fee paid by the Landlord for this application. I order that the Landlord retain the deposit of **\$1,250.00** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$2,900.00**.

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: May 09, 2012.

Residential Tenancy Branch