



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD

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 April 13, 2012, which was witnessed, the tenant did not appear. I find that the tenant has been duly served in accordance with the Act.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?
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 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 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, 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 **\$825.00** comprised of the balance of rent owed for April 2012 and late fee. I order that the landlord retain the

security deposit of **\$400.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$425.00**.

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

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 the balance due.

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: May 02, 2012.

Residential Tenancy Branch