



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNR, OPR, MND, 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 deemed served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on April 27, 2012, a Canada post tracking number was provided as evidence of service, the tenant did not appear.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. 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 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 landlord's agent testified that the tenant did notify them when she left the unit and it was not until May 3, 2012, after posting a 24 hour notice on the door, that they entered the unit. The landlord states an order of possession is no longer required.

The landlord's agent testified the tenant has an outstanding balance of rent in the amount of \$1,825.00 for March, April and May 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 **\$1,825.00** comprised of the balance of rent owed and the \$50.00 fee paid by the landlord for this application.

I order that the landlord retain the deposit and interest of **\$412.50** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$1,412.50**.

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

The landlords have 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 have 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: May 18, 2012.

Residential Tenancy Branch