



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, a monetary order for unpaid rent.

On June 26, 2012, both parties appeared at the Dispute Resolution Hearing. The tenant at the hearing requested an adjournment in order to rebut the landlord's application. The Dispute Resolution Officer granted the tenant's request and the matter was adjourned.

On June 27, 2012, the Residential Tenancy Branch mailed a copy of a Notice of Dispute Resolution Hearing to the parties indicating the hearing was to reconvene on July 18, 2012, at 2:30 p.m. The tenant has not filed any documentary evidence and the tenant has failed to appear at today's hearing.

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.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?
Is the landlord entitled to a monetary order?

Background and Evidence

Based on the testimony of the landlord's agent, I find that the tenant was served with a notice to end tenancy for cause on April 28, 2012, by personal service which was witnessed. The notice informed the tenant that they have ten days to dispute the notice. The notice also explains if the tenant does not file an application to dispute the notice within ten days, they are presumed to have accepted the notice and must move out of the rental unit on the date set out in the notice.

The landlord testified on December 9, 2011, the tenant completed an application for rent subsidy, it was determined at that time the economical rent for the unit was \$1,075.00 should the tenant not qualify for subsidy house. Filed in evidence a copy of the Application.

The landlord's agent stated the tenant failed to declare the full particulars of the household income and subsidy was denied. The landlord stated the tenants economical rent from December 1, 2011 to July 1, 2012, totals \$7,525.00 and the tenant has only paid \$1,673.00 and owes \$5,852.00 in rent arrears.

The landlord stated when they filed their claim they requesting a monetary order in the amount of \$5,000.00, and seeks to recover \$5,000.00 for unpaid rent.

Analysis

Based on the above, the testimony, and evidence, and on a balance of probabilities, I find as follows:

The tenant did not apply to dispute the Notice and is therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the landlord is entitled to an order of possession effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

The tenant on December 9, 2011, signed an acknowledgement that the economical rent would be \$1,075.00, should the tenant not qualify for subsidy housing. The tenant neglected to provide full particulars of the household income and was denied subsidy. As a result, I find the landlord is entitled to recover the economical rent agreed upon on December 9, 2011. The landlord has proven an amount over \$5,000.00, however, the landlord has only claimed \$5,000.00 in their application.

I find that the landlord has established a total monetary claim of \$5,050.00 comprised of unpaid rent from December 1, 2011 to July 1, 2012 and the \$50.00 fee paid by the landlord for this application.

I order that the landlord retain the deposit and interest of \$272.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$4,778.00.**

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

Conclusion

The tenant did not file to dispute the notice to end tenancy for cause issued on April 28, 2012. The tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy. The landlord is granted an order of possession.

The landlord may keep the security deposit and interest in partial satisfaction of the monetary claim. I grant 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: July 18, 2012.

Residential Tenancy Branch