



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR MNSD FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain an Order of Possession for unpaid rent and a Monetary Order for unpaid rent, to keep the security and/or pet deposit(s), and to recover the cost of the filing fee from the Tenant for this application.

The Landlord confirmed they served the Tenant the hearing documents and evidence via registered mail on June 22, 2012 and at that time they had knowledge that the Tenant was still residing in the rental unit. Mail receipt numbers were provided in the Landlord's evidence.

Based on the submissions of the Landlord I find the Tenant was sufficiently served notice of this proceeding; therefore I proceeded in the Tenant's absence.

Issue(s) to be Decided

1. Is the Landlord entitled to an Order of Possession?
2. Is the Landlord entitled to a Monetary Order?

Background and Evidence

The Landlord submitted into evidence copies of the following: the tenancy agreement; the 10 Day Notice to end tenancy for unpaid rent dated June 5, 2012; and copies of the registered mail receipts.

The Landlord confirmed the parties entered into a fixed term tenancy agreement that began on August 1, 2011 and is set to end on July 31, 2012. Rent is payable on the first of each month in the amount of \$810.00 and on July 21, 2011 the Tenant paid \$405.00 as the security deposit.

The Landlord advised that as of June 5, 2012 the Tenant had an accumulated balance owing of \$860.00 which is comprised of \$810.00 unpaid rent plus two NSF charges (2 x

\$25.00) from April and June 2012. The Landlord served the Tenant a 10 Day Notice for unpaid rent by posting the Notice to the Tenant's door on June 5, 2012. The Landlord is seeking an Order of Possession and a Monetary Order for unpaid rent as the Tenant still has some possessions inside the unit.

Analysis

When a tenant receives a 10 Day Notice to end tenancy for unpaid rent they have (5) days to either pay the rent in full or make application to dispute the Notice or the tenancy ends.

In this case the Tenant has not paid the rent and has not made application to dispute the Notice. Therefore, the Tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice, **June 18, 2012**, and must vacate the rental unit to which the notice relates pursuant to section 46(5) of the *Act*. Accordingly, I approve the Landlord's request for an Order of Possession.

The Landlord has claimed for unpaid rent of \$810.00 that was due June 1, 2012. Section 26 of the *Act* stipulates a tenant must pay rent when it is due in accordance with their tenancy agreement. Accordingly I award the Landlord a monetary amount of **\$810.00** for June 2012 unpaid rent.

During the hearing the Landlord clarified that the amount they were seeking on their application was not an accumulation of unpaid rent; rather it included two NSF charges totaling \$50.00. The Landlord has not made application for money owed or compensation for damage or loss under the *Act* and has not indicated anywhere on their application that they were seeking recovery of the NSF charges. Accordingly, I dismiss the Landlord's request for NSF charges.

The Landlord has primarily succeeded with their application; therefore I award recovery of the **\$50.00** filing fee.

Monetary Order – I find that the Landlord is entitled to a monetary claim and that this claim meets the criteria under section 72(2)(b) of the *Act* to be offset against the Tenant's security deposit plus interest as follows:

Unpaid June 1, 2012 Rent	\$810.00
Filing Fee	<u>50.00</u>
SUBTOTAL	\$ 860.00
LESS: Security Deposit \$405.00 + Interest 0.00	<u>-405.00</u>
Offset amount due to the Landlord	<u>\$ 455.00</u>

Conclusion

I HEREBY FIND the Landlord is entitled to an Order of Possession. This Order is legally binding and must be served upon the Tenant.

The Landlord has been issued a Monetary Order in the amount of **\$455.00**. This Order is legally binding and must be served upon the Tenant.

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 13, 2012.

Residential Tenancy Branch