



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with a landlord's application for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent, loss of rent; and, authority to retain the security deposit. The tenant did not appear at the hearing. The landlord testified that the tenant was notified of this proceeding via registered mail sent to the rental unit on June 22, 2012. The landlord testified the tenant and his roommate continue to occupy the rental unit. The landlord verbally provided a registered mail tracking number as proof of service. I was satisfied the tenant was sufficiently served with notification of this hearing and I proceeded to hear from the landlord in the absence of the tenant.

Issue(s) to be Decided

1. Is the landlord entitled to an Order of Possession for unpaid rent?
2. Is the landlord entitled to a Monetary Order for unpaid rent and loss of rent?
3. Is the landlord authorized to retain the security deposit?

Background and Evidence

The one-year fixed term tenancy commenced March 1, 2012 and a security deposit of \$362.50 was paid. The tenant is required to pay rent of \$725.00 on the 1st day of every month. Only one-half of the rent was paid for April 2012 and no rent was paid for May 2012 or June 2012. The landlord has posted both pages of a 10 Day Notice to End Tenancy for Unpaid Rent on three occasions with the most recent being posted on the rental unit door on June 12, 2012 (the Notice). The Notice issued June 12, 2012 indicates rent of \$1,812.50 was outstanding as of June 1, 2012 and has a stated effective date of June 26, 2012. The tenant did not pay the outstanding rent or dispute any of the 10 Day Notices.

In addition to an Order of Possession, the landlord is seeking to recover unpaid rent and loss of rent for the months of April 2012 through July 2012 in the total amount of \$2,537.00.

Documentary evidence provided for this proceeding included: the tenancy agreement; an “outstanding rent notice” dated April 26, 2012; and, the 10 Day Notices issued in April 3, 2012; May 3, 2012 and June 12, 2012.

Analysis

When a tenant receives a 10 Day Notice the tenant has five days to pay the outstanding rent to nullify the Notice or the tenant has five days to dispute the Notice by filing an Application for Dispute Resolution. If a tenant does not pay the outstanding rent or dispute the Notice within five days then, pursuant to section 46(5) of the Act, the tenant is conclusively presumed to have accepted the tenancy will end and must vacate the rental unit by the effective date of the Notice.

Since the tenant did not pay the outstanding rent or dispute the Notices I find the tenancy ended on the effective of the most recent 10 Day Notice: June 26, 2012. Since the tenant continues to occupy the rental unit I find the landlord entitled to an Order of Possession. Provided with this decision is an Order of Possession effective two (2) days after service upon the tenant.

Based upon the undisputed evidence before me, I find the landlord entitled to recover unpaid rent of \$1,812.50 for the months up to and including June 2012. Since the tenant continues to occupy the rental unit I further award the landlord loss of rent for the month of July 2012.

I authorize the landlord to retain the tenant’s security deposit in partial satisfaction of the rent owed the landlord. I also award the landlord the filing fee paid for this application.

In light of the above, the landlord is provided a Monetary Order calculated as follows:

Unpaid rent – April 2012	\$ 362.50
Unpaid rent – May 2012	725.00
Unpaid rent – June 2012	725.00
Loss of rent – July 2012	725.00
Filing fee	50.00
Less: security deposit	<u>(362.50)</u>
Monetary Order	\$2,225.00

The landlord must serve the Monetary Order upon the tenant and may enforce it in Provincial Court (Small Claims) as necessary.

Conclusion

The landlord has been provided an Order of Possession effective two (2) days after service upon the tenant. The landlord has been authorized to retain the tenant's security deposit and has been provided a Monetary Order for the balance of \$2,225.00 to serve 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 12, 2012.

Residential Tenancy Branch