



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

MNR, OPR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on the Notice to End Tenancy for Unpaid Rent dated August 3, 2012, a monetary order for rent owed and an order to retain the security deposit in partial satisfaction of the claim.

Both parties appeared at the hearing and gave evidence. .

Issue(s) to be Decided

The issues to be determined based on the testimony and the evidence are:

Is the landlord entitled to an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent?

Is the landlord entitled to monetary compensation for rental arrears owed?

Background and Evidence

The landlord submitted into evidence a copy of the 10-Day Notice to End Tenancy dated August 3, 2012 with effective date of August 14, 2012, and a copy of the tenancy agreement. The landlord testified that the tenancy began on April 1, 1990, at which time the tenant paid a security deposit of \$297.00. The landlord testified that the tenant failed to pay 806.00 rent owed in August and a Ten Day Notice to End Tenancy for Unpaid Rent was served by posting it on the tenant's door on August 3, 2012. The landlord testified that the tenant paid the rent owed for August 2012 beyond the five-day deadline under the Act to cancel the Notice and was issued with a receipt for "*use and occupancy only*", making it clear to the tenant that the landlord was still going to seek an Order of Possession. The landlord testified that the tenant has not yet paid rent owed for September and is still in arrears for \$806.00, which is being claimed. The landlord testified that the tenant has not vacated the unit and the landlord is requesting an Order of Possession.

Analysis

Based on the testimony of the landlord, I find that the tenant was served with a Notice to End Tenancy for Unpaid Rent by posting it on the door. The tenant did not pay all of the arrears within 5 days 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. Based on the above facts I find that the landlord is entitled to an Order of Possession.

I find that the landlord has established a total monetary claim of \$856.00 comprised of \$806.00 rental arrears for September and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain \$444.81 comprised of the \$297.00 original security deposit and interest of \$147.81.00, in partial satisfaction of the claim leaving a balance due to the landlord of \$411.19.

Conclusion

I hereby issue an Order of Possession in favour of the landlord effective two days after service on the tenant. This order must be served on the Respondent and is final and binding. If necessary it may be filed in the Supreme Court and enforced as an order of that Court.

I hereby grant the Landlord an order under section 67 for \$411.19. This order must be served on the Respondent and is final and binding. If necessary it may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

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: September 24, 2012.

Residential Tenancy Branch