



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, MNSD, OPR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession based on unpaid rent, a monetary order for unpaid rent, an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

Only the Agent for the Landlord appeared at the hearing. They gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Agent testified that the Tenant had been served with the Application and Notice of this Hearing, on October 11, 2012, in person. The Agent who served the Tenant has filed a signed certificate of service in evidence to this effect. Although the Tenant did not appear at the hearing, I find the Tenant has been duly served in accordance with the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Issue

The Agent for the Landlord testified that the Tenant vacated the rental unit on October 15, 2012. Therefore, as an order of possession was no longer necessary, the Application proceeded only on the monetary claims made.

Issue(s) to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlord to monetary relief?

Background and Evidence

Based on the affirmed testimony of the Agent for the Landlord and on the evidence submitted, I find that the Tenant was personally served with a 10 day Notice to End Tenancy for non-payment of \$1,675.00 in rent, parking fees and late payment fees, on October 2, 2012. The Tenant did not pay 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 Tenant vacated the rental unit on October 15, 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. Under section 26 of the Act, rent must be paid when due.

I find the Landlord has established a total monetary claim of **\$1,725.00** comprised of the \$1,630.00 in rent owed for September and October, the parking fee of \$20.00 for September and October, the late fee of \$25.00 for September (pursuant to the tenancy agreement) and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord may retain the deposit and interest of **\$407.50** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$1,317.50**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

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, parking fees, and late payments due, and may keep the security deposit and interest in partial compensation for the claim, and has a monetary order for the balance.

This decision is final and binding on the parties, unless otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: November 01, 2012.

Residential Tenancy Branch