



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, OPR, FF

Introduction

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

Only 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 Landlord testified they served the Tenant with the Notice of Hearing and Application by posting it to the door of the rental unit on September 10, 2012. The Landlord was concerned that the Tenant had abandoned the rental unit and went to the home of the Tenant's mother to serve her. The Landlord served the Tenant's step father with the documents and the step father informed the Landlord he would notify her and give her the documents. Pursuant to sections 71(2)(b) and (c) of the Act, I find the Tenant has been sufficiently served for the purposes of 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.

Issue(s) to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlord to an Order of Possession and monetary relief?

Background and Evidence

Based on the affirmed testimony of the Landlord, I find that the Tenant was served with a 10 day Notice to End Tenancy for non-payment of rent on August 13, 2012, by posting it to the door of the rental unit.

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.

However, the Landlord testified that the Tenant appeared to have abandoned the rental unit in September of 2012. The Tenant removed all her valuable property and left behind broken furniture and debris. The Landlord is away of the abandonment provisions of the Act and regulations.

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. Based on the circumstances here, and on a balance of probabilities, I find the tenancy ended on September 30, 2012.

I find that the Tenant failed to pay rent under the Act and tenancy agreement for August and September of 2012. I find the Landlord has established a total monetary claim of **\$1,410.00** comprised of the rent owed for August and September 2012, and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord may retain the security deposit of **\$340.00** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$1,070.00**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

The Landlord has leave to apply for further monetary orders.

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 the balance of rent due after keeping the security deposit, and has leave to apply for further monetary compensation.

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 22, 2012.

Residential Tenancy Branch