



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

MNR, OPR, 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 September 13, 2012 and a monetary order for rental arrears owed.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on October 4, 2012, tenant did not appear. The landlord provided the tracking numbers from Canada Post and I accept that the tenant was served in accordance with the Act.

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 tenancy began in November 2001 and the current rent is \$365.00. A security deposit of \$175.00 was paid.

The landlord submitted into evidence, a copy of the 10-Day Notice to End Tenancy dated September 13, 2012 with effective date of September 24, 2012, proof of service, copies of communications, a copy of a Notice of Rent Increase issued on March 24, 2012, and a copy of the tenancy agreement.

The landlord testified that, despite being served with a valid Notice of Rent Increase, which increased the rent from \$350.00 to \$365.00 per month, effective July 1, 2012, the tenant persisted in paying only \$350.00 each month and thereby fell into arrears. The landlord testified that a Ten Day Notice to End Tenancy for Unpaid Rent was served on the tenant on September 14, 2012 by posting it on the door in front of a witness. The landlord testified that the tenant did not pay the arrears, did not vacate the unit, nor did the tenant file to dispute the Notice. The landlord is therefore seeking an Order of

Possession based on the Notice. In addition, the landlord is seeking monetary compensation for accrued arrears for the past 5 months now totaling \$75.00.

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 has not paid the arrears within 5 days of the Notice 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 \$125.00 comprised of \$75.00 accrued rental arrears and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain \$125.00 from the tenant's security deposit and interest of \$182.11 in total satisfaction of the claim, leaving a balance remaining of \$57.11 still being held on behalf of the tenant. The remaining security deposit must be administered in accordance with section 38 of the Act.

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.

Conclusion

The landlord's application was successful and the landlord was granted compensation for rental arrears to be withheld from the tenant's security deposit and an Order of Possession to be served on 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: November 08, 2012.

Residential Tenancy Branch