



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes: MNR, OPR,

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on the Ten Day Notice to End Tenancy for Unpaid Rent and a monetary order for rent owed.

Both parties appeared at the hearing and gave evidence.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession based on the Notice?

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 September 5, 2012 with effective date of September 30, 2012 written testimony and a copy of the tenancy agreement signed on July 27, 2012. The landlord testified that, prior to this agreement, the tenant had rented accommodation as a sub-tenant of their previous tenant. However, according to the landlord, the previous tenant ended her tenancy and the respondent tenant then signed a tenancy agreement directly with the landlord. This agreement by the tenant indicated that the monthly rental rate was \$1,700.00. However, the agreement also contained a notation beside the listed rent indicating that the unit would be rented to 3 persons, each of whom would pay \$624.00. The other two tenants or occupants were not named within the tenancy agreement.

The landlord explained that, after the tenant agreed to sign the tenancy agreement the parties discussed the fact that the tenant did not have enough income to pay the \$1,700.00 rent. It was determined that the tenant would find 2 room-mates to share the rental unit and the costs. The parties testified that the landlord agreed to accept rent from the tenant in the amount of \$624.00 each month for August and September 2012 with the expectation that the tenant would find additional occupants by October 1 2012, at which time the rent would revert back to \$1,700.00 per month pursuant to the tenancy agreement. The landlord testified that the tenant failed to pay the rent on September 1, 2012, and a Ten Day Notice to End Tenancy for Unpaid Rent was issued. The landlord

testified that the tenant later made a partial payment, but then defaulted on rent owed for October 2012 and November 2012.

The tenant disagreed with the above testimony and stated that she paid the rent for September 2012 in full and, on September 26, 2012, funds were paid towards the rent for October 2012. The tenant stated that she has receipts to prove the payments. The tenant acknowledged that she still owes \$39.00 towards October rent. The tenant did not dispute that she failed to pay \$624.00 for November 2012.

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 mail. The tenant 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 \$713.00 comprised of \$663.00 accrued rental arrears and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the security deposit of \$375.00 in partial satisfaction of the claim leaving a balance due of \$338.00.

I hereby grant the Landlord an order under section 67 for \$338.00. 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.

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 if necessary 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 a monetary order for rental arrears and an Order of Possession.

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 14, 2012.

Residential Tenancy Branch