



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

MNDC, 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 October 2, 2012, a monetary order for rent owed, late fees and an order to retain the security deposit in partial satisfaction of the claim.

Although served with the Application for Dispute Resolution and Notice of Hearing in person on October 16, 2012, the tenant did not appear.

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 October 2, 2012 with effective date of October 12, 2012, proof of service and a copy of the tenancy agreement. The landlord testified that the tenancy began on April 1, 2011, at which time the tenant paid a security deposit of \$550.00 and later paid a Pet Damage Deposit of \$550.00. The landlord testified that the tenant fell into arrears and was issued a Ten Day Notice to End Tenancy for Unpaid Rent, which was posted on the door on October 2, 2012. The landlord testified that the tenant made partial payments for "*use and occupancy only*" and as of this hearing still owed \$325.00 in arrears. The landlord is seeking a monetary order for the rent owed and the late fees of \$25.00 for October and \$25.00 for November 2012, pursuant to a term in the tenancy agreement.

The landlord testified that the tenant has not vacated the unit and the landlord is seeking 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 has not paid 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 \$425.00 comprised of \$325.00 accrued rental arrears, \$50.00 for late fees and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain \$425.00 from the tenant's security and pet-damage deposits of \$1,100.00 in partial satisfaction of the claim leaving a balance still being held in trust for the tenant in the amount of \$675.00.

I hereby grant the Landlord compensation of \$425.00 and I order that this amount be retained from the tenant's \$1,100.00 security and pet damage deposits.

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 is successful and the landlord is granted an order of possession. The landlord is further ordered to retain a portion of the tenant's security deposit in compensation for rent and late fees.

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 20, 2012.

Residential Tenancy Branch