



Dispute Resolution Services

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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 unpaid rent, for a monetary order for unpaid rent and an order 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 he served the Tenant in person with the Notice of Hearing and Application on November 8, 2012, 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 Matter

The Agent for the Landlord testified that the Tenant vacated the rental unit on or about December 2, 2012, and that for this reason the Landlord was no longer requesting an order of possession. Therefore, I dismiss the Landlord's request for an order of possession as it is no longer necessary.

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, I find that the Tenant was served in person on November 2, 2012, with a 10 Notice to End Tenancy for non-payment of rent, in the amount of \$2,350.00.

The Tenant has not paid 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 apparently vacated the rental unit on December 2, 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 which is a breach of section 26 of the Act and of the tenancy agreement with the Landlord.

I find the Landlord has established a total monetary claim of **\$2,400.00** comprised of the balance of rent of \$2,350.00, and the \$50.00 fee paid by the Landlord for this application. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

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: December 10, 2012.
