



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. The hearing was conducted by conference call. The landlord's representative called in and participated in the hearing. The tenant was present at the landlord's office and also participated in the hearing.

Issues

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Is the landlord entitled to an order allowing retention of the security deposit?

Background and Evidence

This tenancy began on March 15, 2010. The current rent is \$930.00 due in advance on the first day of each month. The tenant paid a security deposit of \$450.00 and a pet deposit of \$450.00 on March 2, 2010. The tenant did not pay the rent for January when it was due and on January 3, 2013 the landlord served the tenant with a 10 day Notice to End Tenancy for unpaid rent. The tenant did not dispute the Notice to End Tenancy. The tenant did not pay rent for February when it was due, but since the application for dispute resolution was filed the tenant has paid part of the rental arrears. At the hearing the landlord and the tenant agreed that there is now \$1,331.00 owing for rent and there is an additional \$50.00 due for two \$25.00 late payment fees.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

Order of Possession - Based on the above background, evidence and analysis I find that the landlord is entitled to an order of possession effective two days after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The landlord's representative intends to give the tenant some time to pay the rental arrears, in which case the landlord may allow the tenancy to continue, but it is within the landlord's discretion to chose when to enforce the order.

Monetary Order and Security Deposit - I find that the landlord has established a total monetary claim of \$1,331.00 for the outstanding rent for January and February. The landlord is entitled to claim \$50.00 in late payment fees and the \$50.00 filing fee for this application for a total monetary award of \$1,431.00. I order that the landlord retain the security and pets deposits of \$900.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$531.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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: February 08, 2013

Residential Tenancy Branch

