



Dispute Resolution Services

Page: 1

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 to retain the security deposit in partial satisfaction of the claim. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

Background and Evidence

The landlord gave the following testimony:

The tenancy began on or about October 1, 2007 and ended on May 13, 2013. Rent in the amount of \$645.11 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$300.00. The tenant failed to pay rent in the month(s) of May and on May 2, 2013 the landlord served the tenant with a notice to end tenancy. The landlord adamantly disputes that the tenant provided a rent cheque for May 2013.

The tenant gave the following testimony:

The tenant provided post dated rent cheques including for the month of May 2013. The tenant vacated the unit on May 13, 2013. The tenant stated that it became apparent that the landlord did not want to resolve any issues and that this was a “negative situation to be in”. The tenant stated that she acknowledges the non payment of rent for May 2013 however she does not feel she should have to pay since the landlord “chose not to cash the cheque”.

Analysis

I accept the landlord's testimony and I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. The tenant has vacated the unit and therefore an order of possession is no longer required; accordingly I dismiss that portion of the landlords' application. The landlord was also requesting monies for expenses that he has not yet incurred. The landlord is premature in that request as he has not conducted any work or paid any monies. I dismiss that portion of the landlords' application with leave to reapply. It was explained to both parties that if they have any other outstanding issues that they cannot resolve, they are both at liberty to file a separate application for dispute resolution to have that heard. Both parties indicated that they understood.

As for the monetary order, I find that the landlord has established a claim for \$645.11 in unpaid rent. The tenant acknowledged the debt owing to the landlord. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the \$300.00 deposit and the \$5.65 in interest which has accrued to the date of this judgment in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$389.46. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted a monetary order for \$389.46. The landlord may retain the security deposit.

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: June 03, 2013

Residential Tenancy Branch

