



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding TOP VISION REALTY INC.
and [tenant name suppressed to protect privacy]

Decision

Dispute Codes:

MNR, OPR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord seeking an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent dated May 3, 2013 and a monetary order for rent owed.

The applicant was present and participated in the hearing. Despite being served with the Notice of Hearing documents by registered mail sent on May 10, 2013, as verified by the Canada Post tracking number, the respondent tenants did not appear. The hearing was therefore conducted in the respondent's absence.

Issue(s) to be Decided

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 tenancy began in February 2013 with rent of \$2,850.00 per month. A security deposit of \$1,425.00 was paid.

The landlord submitted into evidence a copy of the 10-Day Notice to End Tenancy dated May 3, 2013 with effective date of May 13, 2013 and proof of service.

No copy of the tenancy agreement or of the resident ledger had been submitted, but the landlord testified that the tenant had fallen into arrears and failed to pay \$2,850.00 rent for April, 2013 and \$2,850.00 for May, 2013 and a 10-Day Notice to End Tenancy for Unpaid Rent was issued and served on the tenant in person on May 3, 2013.

The landlord testified that the tenant also failed to pay \$2,850.00 for the month of June 2013, but paid \$800.00 towards the arrears and was issued a receipt for use and occupancy only. After deducting the tenant's payment, the total monetary claim is for

\$7,750.00 plus the \$100.00 cost of filing the application. The landlord testified that the tenant has not vacated the unit and the landlord has requested 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 in person. The tenant has not paid the arrears 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 \$7,850.00, comprised of \$7,750.00 accrued rental arrears and the \$100.00 fee paid by the landlord for this application. I order that the landlord retain the tenant's security deposit of \$1,425.00 in partial satisfaction of the claim, leaving a balance due of \$6,425.00.

I hereby grant the landlord an order, under section 67 of the Act, for \$6,425.00. 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 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 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: June 05, 2013

Residential Tenancy Branch