



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KASAPI CONSTRUCTION CO. LTD.
and [tenant name suppressed to protect privacy]

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 the Notice to End Tenancy for Unpaid Rent dated, April 25, 2013, and a monetary order for rental arrears owed.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on May 18, 2013, the tenant did not appear.

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 landlord submitted into evidence a copy of the 10-Day Notice to End Tenancy dated April 25, 2013 with effective date of May 5, 2013, a copy of the tenancy agreement, copies of communications and proof of service. The landlord testified that the tenancy in the current rental unit began on August 1, 2012. The landlord testified that, prior to that, the tenant was living in a different unit within the same complex. The current rent is \$739.00 and a security deposit of \$369.50 was paid.

The landlord testified that the tenant accrued arrears totaling \$764.00 and on April 25, 2013, a 10-Day Notice to End Tenancy for Unpaid Rent was issued and served on the tenant with a witness present. The landlord testified that the tenant acknowledged receiving the 10-Day Notice and made a partial payment of \$739.00 which the landlord accepted, and "*for use and occupancy only*". The landlord testified that a receipt was issued, making it clear that the partial payment would not reinstate the tenancy.

The landlord testified that the tenant failed to pay the remaining \$25.00 of the arrears, which is still outstanding. The landlord pointed out that the tenant failed to file an

application to dispute the 10-Day Notice to End Tenancy for Unpaid Rent. However, the tenant has not vacated the rental unit in accordance with the Notice.

The landlord is seeking an Order of Possession based on the undisputed 10-Day Notice to End Tenancy for Unpaid Rent. The landlord also seeks a monetary order for the remaining arrears and the cost of the application.

Analysis

Based on the evidence and testimony of the landlord, I find that the tenant was served with a Notice to End Tenancy for Unpaid Rent by registered mail. I find that the tenant did not pay all of the arrears and did not apply to dispute the Notice. The tenant 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 \$75.00, comprised of \$25.00 for the remaining unpaid arrears and the \$50.00 cost of this application.

I hereby order that the landlord retain \$75.00 from the tenant's security deposit of \$369.50 in satisfaction of the claim leaving \$294.50 still being held in trust for the tenant, which must be administered in accordance with section 38 of the Act.

I hereby issue an Order of Possession in favour of the landlord effective 1:00 p.m. on Sunday June 30, 2013. 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 with an order granted to deduct outstanding rental arrears from the tenant's security deposit, 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 13, 2013

Residential Tenancy Branch