



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Wall Financial Corporation
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, MNR, OPR, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order. The hearing was conducted by conference call. The landlord's representative called in and participated in the hearing. The tenant did not appear although he was served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on May 31, 2013.

Issues

Is the landlord entitled to an order of possession?
Is the landlord entitled to a monetary order?

Background and Evidence

This tenancy began on December 1, 2012. The rent is \$700.00 due in advance on the first day of each month. The tenant paid a security deposit of \$350.00 at the start of the tenancy. There was a previous dispute resolution hearing on February 19, 2013 when the landlord was granted an order for possession and a monetary order. The landlord did not enforce the order for possession and allowed the tenancy to continue. The tenant did not pay rent for May when it was due. On May 10, 2013 the landlord served the tenant with a Notice to End Tenancy for non-payment of rent by posting it to the door of the rental unit. After he received the Notice to End Tenancy the tenant made some rent payments in June, but the tenant has not paid the full rent for May or for June within five days of receiving the Notice to End Tenancy and he did not file an application to dispute the Notice to End Tenancy.

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.

Monetary Order and Security Deposit – As of June 1, 2013 the sum of \$1,815.00 was owed for rent for May and June and for all previous months dating back to the beginning of the tenancy. The arrears include late charges of \$20.00 in each month that the rent was not paid on time and it included a \$50.00 filing fee for the previous arbitration. Since June 1, 2013 the tenant made three payments of \$200.00, \$300.00 and \$200.00 for a total of \$700.00. After deducting the recent payments from the total of arrears there is an outstanding amount of \$1,115.00. The landlord also has a monetary award granted in the previous proceeding on February 19, 2013. None of the payments made by the tenant since February 19th have been applied in satisfaction of that judgment; they have all been applied to reduce the arrears as set out in this decision. I find that the landlord has established a total monetary claim of \$1,115.00 for the outstanding arrears and rent for June. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$1,165.00. The February 19, judgement in the amount of \$940.00 is still valid and enforceable and I deduct that judgment amount from this award, leaving the sum of \$225.00 due to the landlord in addition to the sum of \$940.00 still outstanding, and I grant the landlord an order under section 67 for the additional amount of \$225.00. 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: June 20, 2013

Residential Tenancy Branch