



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 for Dispute Resolution by the Landlord for an order of possession based on unpaid rent, a monetary order for unpaid rent, an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

Only the Agent for the Landlord appeared at the hearing. They gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Agent testified that he served the Tenant with the Application and Notice of Hearing by posting these on the door on July 29, 2013. The Agent for the Landlord testified that the Tenant appeared to have abandoned the rental unit at the time of service. In these circumstances I find the Tenant has been sufficiently served for the purposes of the Act, pursuant to section 71 of the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlord to an order of possession and monetary relief?

Background and Evidence

Based on the testimony of the Agent for the Landlord, I find that the Tenant was served with a 10 day Notice to End Tenancy for non-payment of rent of \$775.00 on July 18, 2013, by posting to the door of the rental unit (the "Notice").

The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenant had five days to dispute the Notice by filing an Application for Dispute Resolution.

The Agent for the Landlord testified he had not been paid the rent, nor had he been served with documents indicating the Tenant had applied to dispute the Notice.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The Tenant has not paid the outstanding rent 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.

Under section 26 of the Act, the Tenant must not withhold rent, even if the Landlord is in breach of the tenancy agreement or the Act, unless the Tenant has some authority under the Act to not pay rent. In this situation the Tenant had no authority under the Act to not pay rent.

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.

I find that the Landlord has established a total monetary claim of **\$825.00** comprised of rent for July 2013 and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord retain the security deposit and interest (from August 2006 in accordance with the regulation) of **\$335.54** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$489.46**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The Tenant failed to pay rent and did not file to dispute the Notice to End Tenancy. The Tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy.

The Landlord is granted an order of possession, may keep the security deposit and interest in partial satisfaction of the claim, and is granted a monetary order for the balance due.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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: September 03, 2013

Residential Tenancy Branch

