



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OPR MNR MNSD FF RP ERP LRE LAT

Introduction

This hearing dealt with applications by the tenant and by the landlord. The tenant applied for a repair order, an emergency repair order, an order suspending or setting conditions on the landlord's right to enter the rental unit, an order authorizing the tenant to change the locks to the rental unit and an order for a rent reduction. The landlord applied for an order of possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. The hearing was conducted by conference call. The landlord called in and participated in the hearing. The tenant did not appear although he was personally served with the landlord's Application for Dispute Resolution and Notice of Hearing on September 10, 2013 and although this was the hearing of an application by the tenant. The hearing was kept open for more than 15 minutes. In the absence of an appearance by the tenant, his application is dismissed without leave to reapply.

Issues

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Is the landlord entitled to an order allowing retention of the security deposit?

Background and Evidence

This tenancy began on March 12, 2013. The rent is \$550.00 due in advance on the first day of each month. The tenant paid a security deposit of \$275.00 at the start of the tenancy. The tenant did not pay rent for August or for September when it was due. On September 2, 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. The Notice provide that the tenant failed to pay rent in the amount of \$1,100.00 that was due on September 1,

2013 The tenant has not paid rent for August, September or October 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 - I find that the landlord has established a total monetary claim of \$1,650.00 for the outstanding rent for August, September and October. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$1,700.00. I order that the landlord retain the deposit and interest of \$275.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1,425.00. 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: October 18, 2013

Residential Tenancy Branch