



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, MNSD, FF

Introduction

This is an application filed by the Landlord for an order of possession and a monetary order for unpaid rent, for money owed or compensation for damage or loss, to keep all or part of the security deposit and recovery of the filing fee.

The Landlord attended the hearing by conference call and gave undisputed testimony. The Tenant did not attend or submit any documentary evidence. The Landlord states that the Tenant was personally served with the notice of hearing package and the submitted documentary evidence in person on October 3, 2013.

At the outset of the hearing, the Landlord clarified that there are no arrears as the Tenant is up to date with rent. As such no further action is required for the monetary claim.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Background and Evidence

The Landlord states that the Tenant was served with a 10 day notice to end tenancy issued for unpaid rent dated September 1, 2013 in person on September 2, 2013. The notice states that rent of \$1,250.00 was unpaid that was due on September 1, 2013 and an effective date of September 11, 2013. The Landlord states that rent has been accepted from the Tenant and that the rent is up to date. The Landlord stated that no notice to the Tenant was given for use and occupancy only upon receiving the rent arrears.

Analysis

I accept the undisputed testimony of the Landlord and find grounds have not been established to obtain an order of possession for unpaid rent. The Landlord's direct testimony is that rent was received after the 5 day limitation period without notice to the Tenant that the monies were being accepted for "use and occupancy only" as opposed to reinstating the tenancy. The Landlord's application based upon the 10 day notice to end tenancy dated September 1, 2013 is dismissed. The notice is set aside and the tenancy shall continue.

Conclusion

The Landlord's Application is dismissed.

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: November 07, 2013

Residential Tenancy Branch

