



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 and a monetary order for rental arrears. The landlord is also seeking \$300.00 in damages for a broken toilet.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail in person, on October 22, 2013, neither co-tenant appeared.

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 October 2, 2013 and proof of service. The landlord testified that the tenancy began on May 1, 2008, at which time the tenant paid a security deposit of \$550.00 and the current rent is \$1,185.00 per month.

The landlord testified that the tenant fell into arrears for rent of \$1,185.00 owed for September 2013, October 2013 and November, 2013, accruing a debt of \$3,555.00.

The landlord testified that the tenant paid \$1,185.00 towards the arrears on November 4, 2013 and was issued with a receipt that stated the payment was being accepted "*for use and occupancy only*" and does not reinstate the tenancy.

The landlord testified that the current rental arrears total \$2,370.00, which is being sought by the landlord. The landlord testified that the tenant has not vacated the unit and the landlord has requested an Order of Possession.

Analysis

Based on the testimony of the landlord, I find that the tenant was served with a Notice to End Tenancy for Unpaid Rent in person. The tenant has not paid all of the arrears 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. 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 \$3,605.00, comprised of \$3,555.00 in accrued rental arrears and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the tenant's security deposit of \$550.00 in partial satisfaction of the claim leaving a balance due of \$3,055.00.

I hereby grant the Landlord an order under section 67 for \$3,055.00. This order must be served on the Respondent and is final and binding. If necessary it may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

I hereby issue an Order of Possession in favour of the landlord effective two days after service on the tenant. 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.

The portion of the landlord's application relating to damages to the suite is premature as the tenant is still occupying the rental unit and is dismissed with leave to reapply.

Conclusion

The landlord's application is successful and the landlord is granted a monetary order for rental arrears 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: November 25, 2013

Residential Tenancy Branch

