



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OP MNR MNSD FF

Introduction

This hearing dealt with an application by the landlord 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 served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on November 22, 2013.

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 in March, 2013. There is no written tenancy agreement. The rent is \$750.00 due in advance on the first day of each month. The tenant paid a security deposit of \$375.00 at the start of the tenancy. The tenant did not pay the full rent for October when it was due. \$300.00 was unpaid. October 22, 2013 the landlord served the tenant with a Notice to End Tenancy for non-payment of rent by leaving a copy with the tenant's son at the rental unit. The tenant later acknowledged that he received the Notice to End Tenancy. The tenant has not paid rent for November. The tenant is still occupying the rental unit. The landlord sold the rental property to new owners effective November 29, 2013, although he said that he committed to follow through with this proceeding to evict the tenant. The tenant has not paid rent for October or for November 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 \$1,050.00 for the outstanding rent for October and November. I make no finding with respect to December rent. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$1,100.00. I order that the landlord retain the deposit and interest of \$375.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$725.00. 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: December 20, 2013

Residential Tenancy Branch

