



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PORTE REALTY LTD.
and [tenant name suppressed to protect privacy]

Decision

Dispute Codes:

MNR, OPR, MNSD, 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 dated December 2, 2013, a monetary order for rent owed and an order to retain the security deposit in partial satisfaction of the claim.

At the start of the hearing I introduced myself and the participants. The hearing process was explained. The participants had an opportunity to submit documentary evidence prior to this hearing, and all of the evidence that was served properly has been reviewed. The parties were also permitted to present affirmed oral testimony and submissions during the hearing. In making this decision, I have considered the evidence and testimony provided.

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 December 2, 2013 with effective date of December 11, 2013, copies of communications and a copy of the tenancy agreement.

The landlord testified that the tenancy began on May 1, 2012, at which time the tenant paid a security deposit of \$455.00.

The landlord testified that the tenant failed to pay \$965.00 rent and parking for the month of December and a 10-Day Notice to End Tenancy for Unpaid Rent was served. The landlord testified that, in January 2014, the tenant paid the rental arrears owing for the month of December 2013, but this occurred beyond the 5-day deadline to cancel the Notice to End Tenancy for Unpaid Rent.

The landlord testified that the tenant then failed to pay rent for January 2014 and has not paid rent for the month of February 2014. The landlord is claiming \$965.00 for January rent and \$482.50 for part of February rent for total compensation of \$1,447.50 plus the \$50.00 cost of the application.

The tenant argued that there were deficiencies in the rental unit and that the landlord failed to respond to the tenant's complaints. The tenant testified that this is the reason the rent was not paid.

Analysis

Based on the testimony of the landlord, I find that the tenant was served with a Notice to End Tenancy for Unpaid Rent. The tenant did not pay the arrears within 5 days to cancel the Notice and did not apply to dispute the Notice. The tenant 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 \$1,497.50, comprised of \$1,447.50 accrued rental arrears and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the security deposit of \$455.00 in partial satisfaction of the claim leaving a balance due of \$1,042.00.

I hereby grant the Landlord an order under section 67 for \$1,042.5. 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.

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: February 11, 2014

Residential Tenancy Branch

