



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

MNR, OPR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord seeking an Order of Possession based on the Ten-Day Notice to End Tenancy for Unpaid Rent dated January 15, 2014, a monetary order for rent owed and an order to retain the security deposit in partial satisfaction of the claim.

Both parties were present at the hearing. 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 the evidence has been reviewed. The parties were also permitted to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the affirmed testimony and relevant evidence that was properly served.

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 tenancy began in 2013 with rent set at \$550.00 and a security deposit of \$275.00 was paid.

The landlord testified that the tenant failed to pay the \$550.00 rent for four months and accrued arrears of \$2,200. The landlord testified that a Notice to End Tenancy was issued on January 15, 2014 and served on the tenant the same day. The landlord submitted into evidence a copy of the 10-Day Notice.

The landlord testified that the tenant has since paid \$280.00 towards the arrears, but the remaining \$1,920.00 is still outstanding. The landlord is seeking a Monetary Order and an Order of Possession.

The tenant acknowledged that the rent was in arrears, but testified that he had recently paid part of the arrears towards the debt.

Analysis

Based on the testimony of both parties, I find that the tenant was served with a Notice to End Tenancy for Unpaid Rent. The tenant has not paid all of the outstanding rent 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 defences put forward by the tenant with respect to the circumstances that affected his ability to pay the rent, whether true or not, are not material considerations in the matter before me.

Section 26 (1) of the Act states that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with the Act, the regulations or the tenancy agreement. The reasons for the tenant's failure to do so would not be relevant to the issue of whether or not the landlord's Ten Day Notice to End Tenancy for Unpaid Rent was valid and warranted.

Based on the evidence and testimony, I find that the landlord has established a total monetary claim of \$1,970.00 comprised of \$920.00 rent and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the security deposit of \$275.00 in partial satisfaction of the claim, leaving a balance due to the landlord in the amount of \$1,695.00.

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 may be filed in the Supreme Court and enforced as an order of that Court.

I hereby grant the landlord a monetary order under section 67 for \$1,695.00. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The landlord is successful in the application and is granted a monetary order and an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent. 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: March 24, 2014

Residential Tenancy Branch

