



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Although served with the Application for Dispute Resolution and Notice of Hearing by person service on March 14, 2014, the Tenant did not appear.

Issue(s) to be Decided

- Is the landlord entitled to an order of possession and, if so, upon what terms?
- Is the landlord entitled to a monetary order and, if so, in what amount?
- Is the landlord entitled to retain the security deposit?

Background and Evidence

This fixed term tenancy commenced December 2, 2012. The monthly rent of \$1400.00 is due on the first day of the month. The tenant paid a security deposit of \$600.00.

The landlord testified that the tenant was served with a 10 Day Notice to End Tenancy for Non-Payment of Rent on March 3, 2014 by personal service. That document includes information advising the tenant that the notice is cancelled if the tenant paid the arrears of rent, which as of the date of the notice were \$1900.00, within five days. It also advises that the tenant has five days to dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch.

The landlord testified that the tenant paid \$700.00 on March 14; \$700.00 on March 20; and \$500 on March 26. On April 4 the tenant paid \$600 towards the April rent but as of the date of the hearing the arrears of rent for April were \$800.00.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The Tenant did not paid the outstanding rent within the required time and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the *Residential Tenancy 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 effective two days after service on the Tenant.

I find that the landlord has established a total monetary claim of \$850.00 comprised of arrears of rent for April in the amount of \$800.00 and the \$50.00 fee paid by the landlord for this application. I order that the Landlord retain the deposit of \$600.00 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of \$250.00.

Conclusion

- a. An order of possession effective two days after service on the Tenant has been granted. If necessary, this order may be filed in the Supreme Court and enforced as an order of that Court.
- b. A monetary order in favour of the landlord in the amount of \$250.00 has been granted. If necessary, it may be filed in the Provincial Court (Small Claims) 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: April 08, 2014

Residential Tenancy Branch

