



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding REMAX LITTEL OAK REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, FF

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 registered mail sent on April 3, 2014, a Canada post tracking number was provided, the tenant did not appear. I find that the tenant has been duly served in accordance with the Act.

The landlord's agent appeared, gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

Issues to be Decided

Is the landlord entitled to an order of possession for unpaid rent?
Is the landlord entitled to a monetary order?
Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?
Is the landlord entitled to recover the cost of the filing fee?

Background and Evidence

The tenancy began on July 3, 2008. Current rent in the amount of \$1,200.00 was payable on the first of each month. A security deposit of \$600.00 was paid by the tenant.

The landlord's agent testified that on January 23, 2014, a 10 Day Notice to End Tenancy for Unpaid rent was served on the tenant by serving an adult person who resides with the tenant, her boyfriend.

The landlord's agent testified that the notice would be cancelled if the rent in the amount of \$2,195.00 was paid within five days. The notice also explains the tenant had five days to dispute the notice.

The landlord's agent testified that on January 27, 2014, they received a partial payment of \$1,200.00. However, the tenants failed to pay the full amount and did not dispute the notice.

The agents stated they were not reinstating the tenancy and the receipts were issued for use and occupancy only. The landlord stated that the tenant has made payments toward the arrears, however, the current balance owing for unpaid rent is \$1,195.00.

The landlord seeks an order of possession and a monetary order for the balance of rent owed.

Analysis

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

The tenant was served on January 23, 2014, with the 10 Day Notice to End Tenancy for Unpaid Rent, by a method permitted under the Act. I find that the tenant has been duly served in accordance with the Act.

The tenant has not paid 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.

While the landlord has accepted rent for subsequent months, the landlord did not reinstate the tenancy as receipts were issued for use and occupancy only. Further rent arrears are still outstanding.

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.

I find that the landlord has established a total monetary claim of **\$1,245.00** comprised of unpaid rent and the \$50.00 fee paid by the landlord for this application.

I order that the landlord retain the security deposit (\$600.00) and interest (\$4.48) in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$640.52**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

Conclusion

The tenant failed to pay rent and did not file to dispute the notice to end tenancy. The tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlord is granted an order of possession, and may keep the security deposit and interest in partial satisfaction of the claim. I grant a monetary order for the balance due.

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: May 16, 2014

Residential Tenancy Branch

