



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MNSD, OPR, FF

Introduction

The landlord has applied for dispute resolution of a dispute in the tenancy at the above noted address, and requests an Order of Possession, a Monetary Order; and an order to retain the security deposit.

The tenant did not attend the hearing. I accept that the tenant was properly served with the Application for Dispute resolution hearing package by way of registered mail. Failure to accept or claim such mail does not invalidate the deemed service of the application.

Issues to Be Decided

- Is the 10 day Notice to End Tenancy served upon the tenant effective to end this tenancy, and entitle the landlord to an Order of Possession?
- Is there rent money due and payable by the tenant?
- If so, is the landlord entitled to retain the deposit in partial satisfaction of the amount owing?

Background and Evidence

This tenancy began on April 1, 2013. Rent is due on the 1st day of each month in the amount of \$1,170.19. A security deposit of \$572.50 was paid on March 18, 2013. The landlord served the tenant with a 10-Day Notice to End Tenancy on May 2, 2014, after not receiving rent for the month of May, 2014. The tenant did not pay the rent or apply for dispute resolution within the required five days of receiving the Notice to End Tenancy. A payment of \$800.00 was made June 3 6, 2014. There are now rental arrears of \$1,710.57 owing to the landlord.

Analysis

In the absence of the required rental payment, or a dispute of the notice within the 5 day period set out in the Notice, the tenant is conclusively presumed to have accepted the end of the tenancy agreement on the effective date of the Notice, by virtue of section 46(5)(a) of the Residential Tenancy Act. As the effective date of the Notice has passed,

the landlord has established a right to possession. I note that the payment of a portion of the arrears was not accepted as a reinstatement of the tenancy.

The landlord is entitled to recover the rental arrears and filing fee from the tenant, and to retain the security deposit in partial satisfaction of the award.

Conclusion

Pursuant to Section 55(2)(b) of the Residential Tenancy Act, I issue an Order of Possession effective 48 hours following service upon the tenant. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court for enforcement.

The landlord is entitled to an award of \$1,760.57, representing the rental arrears and recovery of the \$50.00 filing fee.

The security deposit totals \$572.50. I order, pursuant to section 38(1)(d) that the full amount of the deposit be retained, in partial satisfaction of the monetary award noted above. I further order that the remaining balance of the award due to the landlord, equalling \$1,188.07, be paid immediately by the tenant to the landlord.

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: July 10, 2014

Residential Tenancy Branch