



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Affordable Housing Charitable Association
and [tenant name suppressed to protect privacy]

DECISION

Dispute codes OP MNR MNSD FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. The hearing was conducted by conference call. The landlord's representative called in and participated in the hearing. The tenant did not appear although she was served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on June 25, 2014.

Issues

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Is the landlord entitled to an order allowing retention of the security deposit?

Background and Evidence

This tenancy began on February 1, 2010. The current subsidized rent is \$529.00 due in advance on the first day of each month. The tenant paid a security deposit of \$450.00 on January 13, 2010. The tenant did not pay rent for June when it was due. On June 3, 2014 the landlord served the tenant with a Notice to End Tenancy for non-payment of rent by posting it to the door of the rental unit. The Notice to End Tenancy included rent for June as well as arrears of rent that the tenant had been paying by installments. The amount stated in the Notice to End Tenancy was the sum of \$1,230.01. After she received the Notice to End Tenancy the tenant gave the landlord a payment of \$549.00 on June 24, 2014. The payment was accepted: "for use and occupancy only" and not as a reinstatement of the tenancy. The tenant gave the landlord a cheque in the amount of \$549.00 for July rent, but it was returned: "NSF". The tenancy agreement provided for a \$25.00 charge for NSF cheques. On July 14, 2014 the tenant made a payment of \$549.00 by money order. The tenant has not paid rent for August and she did not file an application to dispute the Notice to End Tenancy.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

Order of Possession - Based on the above background, evidence and analysis 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.

Monetary Order and Security Deposit – taking into account the payments made by the tenant, I find that the landlord has established a total monetary claim of \$1,190.00 for the outstanding rent, inclusive of August rent. The landlord is entitled to recover a \$25.00 NSF fee and the \$50.00 filing fee for this application for a total award of \$1,265.00. I order that the landlord retain the deposit and interest of \$450.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$815.00. This order may be filed in the Small Claims Court 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: August 20, 2014

Residential Tenancy Branch

