



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPRIET
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 on June 19, 2014, 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 at the hearing.

Issues to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary order for unpaid rent?

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

Based on the testimony of the landlord's agent, I find that the tenant was served with a notice to end tenancy for non-payment of rent on June 4, 2014, by posting to the door. The notice informed the tenant that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenant had five days to dispute the notice.

The landlord's agent testified that the tenant did not pay the rent or dispute the notice within five days. The agent stated that they have not had any contact with the tenant since the notice to end tenancy was issued, although they made several attempts to contact the tenant.

The landlord's agent testified that the tenant's rent for June, July and August 2014, which were paid by automatic debit, were turned for insufficient funds. The landlord's agent stated that they seek to recover unpaid rent and the \$25.00 fee they incurred for each month the rent was returned due to insufficient funds. The landlord seeks to recover unpaid rent for June, July, August 2014, and the insufficient fund fees in the amount of \$2,520.00.

The landlord's agent testified on August 4, 2014, that they were able to make contact with the tenant's grandmother and she told them that the tenant was now living elsewhere, although she would not provide any further details. The agents stated that they believe the tenant has abandoned the rental premise, however, they still require an order of possession as they are

unsure if the tenant will return as he left his personal items behind and has not returned the keys.

Analysis

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

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.

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 accept the undisputed evidence of the landlord's agent that the tenant remained in possession of the rental unit for the months of June, July and August 2014. Further, it was not until August 4, 2014, that the tenant's grandmother informed the landlord that the tenant was now living elsewhere, although the tenant's personal belongings remained in the rental unit and the keys to the premises were not returned. I find the tenant breached 26 of the Act, when he failed to pay rent and this caused losses to the landlord.

I find that the landlord has established a total monetary claim of **\$2,570.00** comprised of rent for June, July, August 2014, the insufficient fund fee and the \$50.00 fee paid by the landlord for this application.

I order that the landlord retain the security deposit of **\$407.50** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$2,162.50**.

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 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: August 13, 2014

Residential Tenancy Branch

