



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPITAL REGION HOUSING CORPORATION
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 based on unpaid rent, a Monetary Order for unpaid rent, an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlord to an Order of Possession and monetary relief?

Background and Evidence

The application concerned a fixed term tenancy for the month August 1, 2014 to August 31, 2014. The Landlord's agent, J.W., testified that there had been a series of fixed term tenancies and the current tenancy was an extension for the month of August.

Based on the testimony of J.W., I find that the Tenant was served with a 10 day Notice to End Tenancy for non-payment of rent on August 13, 2014 by posting to the rental unit door (the "Notice").

The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days of service. The Notice also explains the Tenant had five days from the date of service to dispute the Notice by filing an Application for Dispute Resolution.

The Tenant did not pay the outstanding rent, nor did she make an application for dispute resolution. The Tenant testified that she was incarcerated at the time the Notice was posted to her door and was not released until August 20, 2014. She testified that she did not see the Notice until August 22, 2014. In any event, she confirmed that she did not pay the outstanding rent upon being released, nor did she make an application for dispute resolution.

Furthermore, the fixed term tenancy ended August 31, 2014.

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.

The Landlord's agent agreed the Tenant could move out of the rental unit on September 15, 2014. As such, I find that the Landlord is entitled to an Order of Possession effective September 15, 2014 at 1:00 p.m., the date agreed upon by the parties. 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 \$957.50 comprised of the following:

Item Description	Amount
1. Unpaid rent for August 2014	\$605.00
2. Unpaid rent to September 15, 2014	\$302.50
3. filing fee	\$50.00
TOTAL MONETARY CLAIM	\$957.50

I order that the Landlord retain the security deposit of \$302.50 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of \$655.00.

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, may keep the security deposit and interest in partial satisfaction of the claim, and is granted a monetary order for the balance due.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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: September 10, 2014

Residential Tenancy Branch

