



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MT, CNR, OPR, MNR, FF

Introduction

This hearing dealt with two related applications. One was the tenant's application for an order setting aside a 10 Day Notice to End Tenancy for Non-Payment of Rent and an order allowing him more time in which to do so. The other was the landlord's application for an order of possession and a monetary order. As the parties and circumstances are the same on both applications, one decision will be rendered for both.

Although the tenant was served with the landlord's application for dispute resolution and notice of hearing by personal service on August 10, 2014, and he was the applicant on the other matter, the tenant did not appear.

As the tenant did not appear his application is dismissed without leave to re-apply.

Issue(s) to be Decided

- Is the landlord entitled to an order of possession and, if so, on what terms?
- Is the landlord entitled to a monetary order and, if so, in what amount?

Background and Evidence

This one-year fixed term tenancy commenced December 1, 2013. The monthly rent of \$1050.00, which included a utility fee of \$150.00 and a fee for high speed Internet of \$25.00, was due on the first day of the month. The tenant paid a security deposit of \$512.50.

On July 6 the landlord served the tenant with a 10 Day Notice to End Tenancy for Non-Payment of Rent. At that time the arrears of rent were \$1683.00.

Between July 24 and September 5 the tenant has made four payments towards rent in the total amount of \$2300.00. For each payment the tenant was given a receipt that

stated the payment was being received “for use and occupancy only”. As of the date of the hearing the arrears of rent, including the September rent, was \$1483.00.

Analysis

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

The tenant’s application has been dismissed without leave to re-apply. Further, the tenant has not paid the outstanding rent in full within the time required to do so and is therefore conclusively presumed under section 46(5) of the *Residential Tenancy Act* to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of possession effective two days after service on the tenant.

I find that the landlord has established a total monetary claim of \$\$1533.00 comprised of arrears of rent in the amount of \$1483.00 and the \$50.00 fee paid by the landlord for this application. I order that the Landlord retain the deposit of \$512.50 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of \$1020.50..

Conclusion

- a. An order of possession effective two days after service on the tenant has been granted. If necessary, this order may be filed in the Supreme Court and enforced as an order of that Court.
- b. A monetary order in favour of the landlord in the amount of \$1020.50 has been granted. If necessary, it may be filed in the Provincial Court (Small Claims) 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: September 16, 2014

Residential Tenancy Branch

