



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BAYSIDE PROPERTY SERVICES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes opr, mnr, mnsd, 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, and the 10 day Notice to End Tenancy personally.

Issues to Be Decided

- Is the 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 November 20, 2010. Rent is due on the 1st day of each month in the amount of \$818.00. A security deposit of \$400.00 was paid on November 20, 2010. The landlord served the tenant with a 10-Day Notice to End Tenancy, after not receiving rent for the month of August . The tenant did not pay the rent or apply for dispute resolution within the required five days of receiving the Notice to End Tenancy. Some payments were made subsequently, and were accepted on a use and occupation basis by the landlord. Including late charges and NSF charges, there are now rental arrears of \$1,168.00 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, and as the use and occupation period will end in 2 days, the landlord has established a right to possession.

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 \$1,186.00, representing the rental arrears, together with recovery of the \$50.00 filing fee.

The security deposit including accrued interest to the date of this hearing, totals \$400.00. 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 \$836.00, be paid immediately.

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: October 29, 2014

Residential Tenancy Branch

