



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an application 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. Both parties participated in the conference call hearing.

At the outset of the hearing, the tenant advised that he had witnesses available. As the tenant acknowledged having received the notice to end tenancy at issue and further acknowledged that he had not paid rent, it was not necessary to hear from the witnesses.

The tenant claimed that he had been locked out of the rental unit and although the landlord denied having changed the locks, at the hearing the landlord's agent agreed to meet the tenant at the rental unit to ensure he could access the unit.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The parties agreed that the tenancy began in or about April 2013 at which time the tenant paid a \$225.00 security deposit. They further agreed that rent was set at \$450.00 per month, payable in advance on the first day of each month.

The parties agreed that the tenant failed to pay \$300.00 of his rent in March 2014, \$50.00 of his rent in May 2014 and paid no rent whatsoever in September and October 2014. The landlord testified that he served the tenant with a notice to end tenancy for unpaid rent (the "Notice") on September 18, 2014 via registered mail. The tenant acknowledged having received the Notice.

The parties agreed that in the spring of 2014, they made an arrangement whereby the tenant could work off part of his rental arrears by performing labour for the landlord. The tenant claimed that he worked for an entire day whereas the landlord claimed that he worked for just 2 hours. The landlord was willing to credit the tenant with \$15.00 per hour for 2 hours of work.

The parties further agreed that the tenant recently made a \$50.00 payment toward rental arrears.

Analysis

I find that the tenant received the Notice to end tenancy in late September. The tenant did not dispute the Notice and did not satisfy the rental arrears within 5 days of receipt and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. I grant the landlord an order of possession effective 2 days after service on the tenant. Should the tenant fail to comply with the order, it may be filed in the Supreme Court and enforced as an order of that Court.

I find that as of the date the landlord filed his application, the tenant was \$1,250.00 in arrears. I find that the tenant should be credited with the \$50.00 payment and \$30.00 for labour as he has not proven on the balance of probabilities that he performed more than 2 hours of labour, which brings the total arrears to \$1,170.00. I award the landlord \$1,170.00 in rental arrears. As the landlord has been successful in his application, I find that he should recover the \$50.00 filing fee paid to bring the application and I award him \$50.00 for a total entitlement of \$1,220.00.

I order the landlord to retain the \$225.00 security deposit in partial satisfaction of the claim and I grant him a monetary order under section 67 for the balance of \$995.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted an order of possession and a monetary order for \$995.00. The landlord will retain the security deposit.

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: November 17, 2014

Residential Tenancy Branch

