



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WEST 56 APARTMENTS
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, for a monetary order and to recover the filing fee from the tenant.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on September 19, 2014, the tenant did not appear. I find that the tenant has been duly served in accordance with the Act. A Canada post tracking number was provided as evidence.

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?
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 September 4, 2014, by posting to the door of the rental unit. 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 outstanding rent within five days and did not dispute the notice. The landlord seeks an order of possession.

The landlord's agent testified the tenant is in rent arrears as follows:

- \$50.00 for August 2014;
- \$1,050.00 for September 2014;
- \$1,050.00 for October 2014; and
- \$1,050.00 for November 2014.

The landlord's testified that on October 14, 2014 she received a partial payment of rent in the amount of \$1,070.00 and a further payment on October 24, 2014, in the amount of \$700.00. The landlord seeks to recover unpaid rent in the amount \$1,430.00

The landlord's agent testified that also seek to recover the amount of \$20.00 for each month the tenant was late paying rent as per clause #7 of the tenancy agreement. The landlord seeks to recover late fees in the amount of \$80.00. Filed in evidence is a copy of the tenancy agreement.

The landlord's agent testified that they seek to retain the security deposit of \$525.00 to offset their monetary claim.

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 find that the landlord has established a total monetary claim of **\$1,560.00** comprised of unpaid rent, late fees and the \$50.00 fee paid by the landlord for this application.

I order that the landlord retain the security deposit of **\$525.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$1,035.00**.

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, and may keep the security deposit and interest 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: November 04, 2014

Residential Tenancy Branch

