



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes: OPR, MNR, MNSD, MNDC, FF

Introduction

This is an application by the landlord seeking an order of possession and rental arrears based on a Ten Day Notice to End Tenancy for Unpaid Rent dated January 3, 2015.

Despite being served with the Notice of Hearing documents in person on January 17, 2015, the respondent did not appear and the hearing was therefore conducted in the respondent's absence.

Issue(s) to be Decided

Is the landlord entitled to compensation for rental arrears?

Is the landlord entitled to an order of possession?

Background and Evidence

The landlord testified that the tenancy began January 16, 2013. Rent was set at \$1,448.00 per month. A security deposit of \$697.50 is being held by the landlord.

The landlord testified that the tenant fell into arrears for rent in the amount of \$78.00 for the month of January 2015 and a 10 Day Notice to End Tenancy for Unpaid Rent was issued and served on the tenant in person on January 3, 2015.

The landlord testified that the tenant later paid the arrears in full but served the landlord with a written Notice that they would be vacating the rental unit on February 28, 2015 and paid rent for use and occupancy for the month of February. The landlord seeks an order of possession based on the 10 Day Notice to End Tenancy for Unpaid Rent and the tenant's Notice..

Analysis

The tenant did not pay the outstanding rent within 5 days to cancel the Notice 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 tenant has also given written Notice to vacate and paid rent for the month of February for use and occupancy only. Based on the above facts I find that the landlord is entitled to an Order of Possession.

Based on the evidence before me, I find the landlord is entitled to be reimbursed the cost of the application in the amount of \$50.00. I order that the landlord retain \$50.00 from the tenant's \$697.50 security deposit, leaving \$647.50 still on deposit in trust for the tenant. The remaining security deposit must be administered in accordance with section 38 of the Act.

I hereby issue an Order of Possession in favour of the landlord effective February 28, 2015. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

Conclusion

The landlord is successful in the application and is awarded monetary compensation for the cost of the application and an Order of Possession.

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: February 05, 2015

Residential Tenancy Branch

