



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OP MNR MNSD FF

Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order. The hearing was conducted by conference call. The landlord and the tenant called in and participated in the hearing. The tenant acknowledged that she received the landlord's application for dispute resolution sent by registered mail on January 26, 2015.

Issues

Is the landlord entitled to an order of possession?
Is the landlord entitled to a monetary order?

Background and Evidence

This tenancy began on December 1, 2014. There is no written tenancy agreement. . The rent is \$1,300.00 due in advance on the first day of each month. The tenant did not pay a security deposit and according to the parties, the tenant did not pay full rent for December because there was an agreement between the parties that the tenants (the respondent and her fiancé) would perform some work and repairs in lieu of rent. The tenant did not pay rent for January and has not paid rent for February. The landlord testified that on January 11, 2015, he served the tenant with a 10 day Notice to End Tenancy on January 11, 2015 by attaching a copy to the door of the rental unit. The landlord said that the tenant or her boyfriend was present at the rental unit when he served the Notice to End Tenancy but the person refused to open the door when he sought access to the rental unit. At the hearing the tenant denied that she received the Notice to End Tenancy. The tenant acknowledged that no rent was paid for January or for February; she said this was because the landlord had not made repairs that were required. She complained that there was no heat, an insufficient supply of hot water and intermittent electrical service due to faulty wiring. The tenant also said there was a leaky pipe that the landlord neglected to fix after the tenants notified him of the problem.

During the hearing the landlord and the tenant were given an opportunity to discuss the matters in dispute to determine whether they might agree to a settlement. The parties were unable to arrive at any resolution.

Analysis

The tenant said that she did not receive a copy of the Notice to End Tenancy, however I accept the landlord's testimony that he attached the notice to the door of the rental unit on January 11, 2015 when one of the occupants was present in the rental unit but refused to permit access. The tenant acknowledged the landlord's presence at the rental unit on the day in question and commented that her boyfriend was upset by the landlord's wish to enter the rental unit with an electrician. I find that the Notice to End Tenancy was served by the landlord as he testified. Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. The tenant has not paid rent and has not applied to dispute the Notice to End Tenancy. The tenant has not provided evidence of any ground that would entitle her to withhold payment of rent and she is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

Order of Possession - Based on the above background, evidence and analysis 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.

Monetary Order and Security Deposit - I find that the landlord has established a total monetary claim of \$2,600.00 for the outstanding rent for January and February. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$2,650.00 and I grant the landlord an order under section 67 in the said amount. This order may be filed in the Small Claims Court 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: February 11, 2015

Residential Tenancy Branch

