



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 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.

The landlord served the Application for Dispute Resolution and Notice of Hearing on the tenant by giving the documents to an adult who appears to be living in the rental unit with the tenant. This is effective service for an application for an order of possession pursuant to section 89(2)(c) of the *Residential Tenancy Act*. Pursuant to section 771(2), I order that the application for a monetary order has been sufficiently given or served or the purposes of the *Act*.

Issue(s) to be Decided

- Is the landlord entitled to an order of possession and, if so, upon what terms?
- Is the landlord entitled to a monetary order and, if so, in what amount?
- Is the landlord entitled to retain the security deposit?

Background and Evidence

This tenancy commenced February 1, 2014 as a one year fixed term tenancy and has continued as a month-to-month tenancy. The monthly rent of \$1300.00, which includes utilities, is due on the first day of the month. The tenant paid a security deposit of \$650.00.

The landlord testified that the tenant was served with a 10 Day Notice to End Tenancy for Non-Payment of Rent when it was posted at the rental unit on January 10, 2015. That document includes information advising the tenant that the notice is cancelled if the tenant paid the arrears of rent within five days. It also advises that the tenant has five days to dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. The landlord testified that the tenant did neither.

The landlord testified that the tenant had not paid the rent for December, January and February and the arrears total \$3900.00.

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 *Residential Tenancy Act* to have accepted that the tenancy ended on the effective date of the Notice. Based on the above facts I find that the landlord is entitled to an order of possession effective two days after service on the tenant.

I find that the landlord has established a total monetary claim of \$3950.00 comprised of arrears of rent in the amount of \$3900.00 and the \$50.00 fee paid by the landlord for this application. I order that the Landlord retain the deposit of \$650.00 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of \$3300.00.

Conclusion

- a. An order of possession effective two days after service on the tenant has been granted. If necessary, this order may be filed in the Supreme Court and enforced as an order of that Court.
- b. A monetary order in favour of the landlord in the amount of \$3300.00 has been granted. If necessary, it may be filed in the Provincial Court (Small Claims) 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 27, 2015

Residential Tenancy Branch

