



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes

OP MNR MNSD FF

RTB-136

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. The hearing was conducted by conference call. Both parties attended the hearing and had an opportunity to be heard.

Issues

Is the party entitled to the requested orders?

Background and Evidence

This tenancy began on October 1, 2013. The rent is \$2700.00 due in advance on the first day of each month. The tenant paid a security deposit of \$1350.00 and a pet damage deposit of \$675.00 at the start of the tenancy. The tenant did not pay rent for August when it was due. On August 16, 2015 the landlord served the tenant with a Notice to End Tenancy for non-payment of rent by posting it to the door of the rental unit and by sending it by registered mail. The tenant then paid the rent for September but then paid no rent for October. The tenant did not file an application to dispute the Notice to End Tenancy.

Analysis

Order of Possession - 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. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Accordingly, I find that the landlord is entitled to an order of possession effective 2 days from the date of service.

Monetary Order – The landlord is seeking a monetary order in the amount of \$8100.00 for unpaid rent for August and October and loss of income for November. I am satisfied that the landlord is entitled to such a monetary order. The tenant was obliged to pay the rent when it was due in August and October and has indicated that he will be staying in the home for a portion of November. During the hearing, the parties agreed that the money was owed and that they would meet this weekend to effect payment.

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 \$8100.00. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$8150.00. I order that the landlord retain the deposit and interest (\$0.00) of \$2025.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$6125.00. 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: October 30, 2015

Residential Tenancy Branch