



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Macdonald Commercial Real Estate Services Ltd.
and [tenant name suppressed to protect privacy]

Dispute codes OP MNR MNSD FF

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 satisfaction of the claim. The hearing was conducted by conference call. Both parties participated

Issues

Is the party entitled to the requested orders?

Background and Evidence

This tenancy began on December 1, 2005. The rent is \$990.00 due in advance on the first day of each month. The tenant paid a security deposit of \$400.00 at the start of the tenancy. The tenant did not pay rent for November when it was due. On November 10, 2015 the landlord served the tenant with a Notice to End Tenancy for non-payment of rent sent by registered mail. The tenant did not dispute the Notice. The tenant did however make a large rent payment of \$2000.00 on January 7, 2016. This payment left \$17.00 still outstanding from the total arrears.

Analysis

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.

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 \$17.00 for the outstanding rent for January. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$67.00. I order that the landlord retain \$67.00 from the tenant's deposit and return the balance to him. 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: January 20, 2016

Residential Tenancy Branch

