



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, for a monetary order for unpaid rent, to keep all or part of the security deposit and to recover the filing fee.

Both parties appeared gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

Issues to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary order?

Is the landlord entitled to keep all or part of the security deposit?

Background and Evidence

Based on the testimony of the landlord's agent, I find that the tenant was served with a notice to end tenancy for non-payment of rent on September 9, 2015, by posting to the door. The notice informed the tenant that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenant had five days to dispute the notice.

The landlord's agent testified that the tenancy began on August, 1, 2015. Rent in the amount of \$1,750.00 was payable on the first of each month. A security deposit of \$875.00 was paid by the tenant.

The landlord's agent testified that the tenant failed to pay rent for August 2015, and September 2015, and was served with a notice to end the tenancy, as the tenant was in rent arrears of \$3,500.00.

The landlord's agent testified the tenant did not dispute the notice. The agent stated that on September 6, 2015, they received a payment of \$1,400.00 and a further payment on September 14, 2015, leaving an outstanding balance of \$1,750.00.

The landlord's agent testified that the tenant did not pay rent for October 2015, when due under the tenancy agreement and on October 15, 2015, they received \$1,400.00 and a further amount of \$450.00 on October 19, 2015. The agent stated that the tenant has not paid any rent since the October 19, 2015 payment. The landlord seek to recover unpaid rent up to and including January, 2016, in the amount of \$6,900.00.

The landlord's agent testified that the tenant also has not paid the utilities due in the amount of \$288.30.

The landlord seeks and order of possession and a monetary order in the amount of \$7,188.30.

The tenant does not deny rent is owed. The tenant stated that they believe the amount should be lower. The tenant indicated that they cannot recall any other payments that were made.

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 Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the landlord is entitled to an order of possession, pursuant to section 55 of the Act, 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.

I accept the landlord detail calculation of rent payments received. The tenant provided no other evidence to the contrary. I find that the landlord has established a total monetary claim of \$7,238.30 comprised of unpaid rent up to and including January 2016, unpaid utilities and the \$50.00 fee paid by the landlords for this application.

I order that the landlord retain the security deposit of **\$875.00** in partial satisfaction of the claim and I grant the landlord an order pursuant to section 67 of the Act, for the balance due of **\$6,363.30**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

Conclusion

The tenant failed to pay rent and did not file to dispute the notice to end tenancy. The tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlord is granted an order of possession, and may keep the security deposit and interest in partial satisfaction of the claim. I grant a monetary order for the balance due.

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 14, 2016

Residential Tenancy Branch

