



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPC, MNR, MNSD, FF

Introduction

On May 10, 2016, the Landlord submitted an Application for Dispute Resolution for an order of possession; for a monetary order for unpaid rent or utilities; and to recover the cost of the filing fee. The matter was set for a conference call hearing at 9:00 a.m. on this date.

The Landlords attended the teleconference hearing; however, the Tenant did not. The Landlord provided affirmed testimony that their agent D. B. served the Tenant with the Notice of Hearing in person by hand on May 10, 2016. I find that the Tenant has been duly served in accordance with the Act.

The Landlord was provided the opportunity to present his evidence orally and in written and documentary form, and to make submissions at the hearing.

Preliminary Issue

I granted the Landlord's request to amend the application to include an order of possession for unpaid rent and to keep the security deposit in partial satisfaction of unpaid rent.

Issues to be Decided

Is the Landlord entitled to an order of possession due to unpaid rent?
Is the Landlord entitled to an order of possession for cause?
Is the Landlord entitled to a monetary order to recover unpaid rent?
Is the Landlord entitled to keep the security deposit towards unpaid rent?
Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

The Landlord testified that the tenancy began in June 2010, as a month to month tenancy. Rent in the amount of \$745.00 is payable on the first of each month. The Tenant paid the Landlord a security deposit of \$375.00.

The Landlord testified that the Tenant did not pay the full amount of rent for May 2016, and she still owes \$350.00.

The Landlord testified that the Tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated April 19, 2016, ("the Notice") on April 19, 2016. The Landlord testified that the Tenant was served with the Notice in person by hand. The Notice states that the Tenant has failed to pay rent in the amount of \$350.00 which was due on May 1, 2016. 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 testified that the Tenant was also served with a 1 Month Notice to End Tenancy for Cause dated April 30, 2016, by slipping the 1 Month Notice under the Tenant's door on April 30, 2016.

There is no evidence before me that that the Tenant made an application to dispute the 10 Day Notice or the 1 Month Notice.

The Landlords testified that the Tenant still owes them \$350.00 for May rent and did not pay the rent for June 2016, that was due on June 1, 2016. The Landlord testified that the Tenant still owes rent money for the following months:

- May 2016, in the amount of \$350.00
- June 2016, in the amount of \$745.00

The Landlord seeks an order of possession and a monetary order for unpaid rent in the amount of \$1,095.00

Analysis

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I find that the Tenant has not paid the outstanding rent within five days of receiving the 10 Day Notice, 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. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

I find that the Tenant owes the Landlord \$1,095.00 for unpaid rent.

I order that the Landlord can keep the security deposit in the amount of \$375.00 in partial satisfaction of the claim for unpaid rent.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to pay the Landlord the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I find that the Landlord has established a total monetary claim of \$1,195.00 comprised of \$1,095.00 in unpaid rent for the above mentioned dates and the \$100.00 fee paid by the Landlord for this hearing. After offsetting the security deposit of \$375.00 towards the claim of \$1,195.00, I find that the Landlord is entitled to a monetary order in the amount of \$820.00. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

Conclusion

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

I order that the Landlord can keep the security deposit in the amount of \$375.00 in partial satisfaction of the claim for unpaid rent.

The Landlord is granted an order of possession effective 2 days after service on the Tenant and I grant a monetary order for the unpaid rent and the cost of the filing fee in the amount of \$820.00.

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: June 02, 2016

Residential Tenancy Branch