



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC

Introduction

This hearing dealt with an application for dispute resolution 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. Although served with the Application for Dispute Resolution and Notice of Hearing by personal service on May 26, 2016, the tenant did not appear.

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?

Background and Evidence

This tenancy commenced October 1, 2014 as a one year fixed term tenancy and has continued thereafter as a month-to-month tenancy. The monthly rent of \$700.00 is due on the first day of the month. The tenant paid a security deposit of \$350.00.

The landlord testified that the tenant was served personally with a 10 Day Notice to End Tenancy for Non-Payment of Rent on May 2, 2016. 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 she has never been served with an application by the tenant disputing the notice but in mid-June the tenant paid the rent in full up to the end of June.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The tenant did not paid the outstanding rent within the five day period 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. As the rent has been paid to the end of June, the effective date of the order of possession will be June 30, 2016.

I find that the landlord has established a total monetary claim of \$100.00 comprised of the fee paid by the landlord for this application. Pursuant to section 72(2), that amount may be withheld from the security deposit held by the landlord.

Conclusion

- a. An order of possession effective **June 30, 2016**, 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 \$100.00 has been granted. That amount may be withheld from the security deposit held by the landlord.

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 23, 2016

Residential Tenancy Branch