



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNR, MNDSD, FF

Introduction

This hearing dealt with an application by the landlords for an order of possession, a monetary order and an order permitting retention of the security deposit in partial satisfaction of the claim. Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail deemed received on July 18, 2016, the tenant did not appear.

Issue(s) to be Decided

- Are the landlords entitled to an order of possession and, if so, on what terms?
- Are the landlords entitled to a monetary order and, if so, in what amount?
- What disposition should be made of the security deposit?

Background and Evidence

This month-to-month tenancy commenced approximately seven years ago. The monthly rent of \$1000.00 is due on the first day of the month. The tenant paid a security deposit of \$500.00.

The landlord testified that the tenant was served with a 1 Month Notice to End Tenancy for Cause by registered mail actually received on June 2, 2016. That document includes information advising the tenant that he had 10 days to dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. The landlord testified that the tenant did not serve them with an application disputing the notice.

The landlord testified that the tenant had not paid the rent since April and that the arrears of rent for May, June, July and August total \$4000.00.

Analysis

The tenant did not apply to dispute the Notice and is therefore conclusively presumed under section 47(4) 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 effective two days after service on the tenant.

The landlord testified that the arrears of rent for May, June, July and August total \$4000.00. This amount claimed on the Application for Dispute Resolution was less than that amount. Unless one of the very limited circumstances for withholding rent set out in the *Residential Tenancy Act* applies, a tenant is responsible for payment of the rent until they vacate the rental unit or the term of the tenancy agreement ends, whichever is later. The Application for Dispute Resolution did claim arrears of rent. I find that the respondent tenant received notice that the landlords would be claiming for the unpaid rent and that he was not misled by the actual number on the Application. Accordingly I award the landlords the sum of \$4000.00 for arrears of rent for May, June, July and August.

In summary, I find that the landlords have established a total monetary claim of \$4100.00 comprised of arrears of rent in the amount of \$4000.00 and the \$100.00 fee paid by the landlords for this application. I order that the landlords retain the deposit of \$500.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$3600.00.

Conclusion

- a. An order of possession effective two days after service on the tenant 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 \$3600.00 has been granted. If necessary, it may be filed in the Provincial Court (Small Claims) 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: August 23, 2016

Residential Tenancy Branch