



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 or utilities, for an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee from the tenant.

Both parties appeared gave affirmed 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.

Preliminary matter

At the outset of the hearing the tenant indicated a different spelling of their last name. Therefore, I find it appropriate to amend the style of cause to include that spelling.

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 retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The parties agreed that the tenancy commenced June 2005. Current rent of \$1,340.00 was payable on the first of each month. The tenant paid a security deposit of \$635.00.

The tenant acknowledged that they received a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. The tenant does not dispute that they have not paid any rent for March 2016, April 2016, May 2016, June 2016, July 2016 and August 2016 in the total amount of \$8,040.00. The tenant stated that they deposited the amount of \$700.00 in the landlord's account yesterday, August 25 2016.

The landlord testified that they have not verified that the tenant made a payment on August 25, 2016. The landlord seeks a monetary order and an order of possession.

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 find that the landlord has established a total monetary claim of **\$8,140.00** comprised of unpaid rent as stated above, and the \$100.00 fee paid by the landlord for this application.

I order that the landlord retain the security deposit of \$635.00 and interest of \$21.13 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 **\$7,483.87**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

As the landlord was unable to verify if the tenant paid \$700.00, on August 25, 2016, that amount has not been considered in the monetary order. The landlord is obligated to credit the monetary order if money was received as stated by the tenant.

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: August 26, 2016

Residential Tenancy Branch