



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 by the landlord for an order of possession, a monetary order and an order allowing 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 actually received on August 15, 2016, the tenant did not appear.

Issue(s) to be Decided

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

Background and Evidence

This tenancy commenced March 1, 2011 as a one year fixed term tenancy and has continued thereafter as a month-to-month tenancy. The current monthly rent is \$545.00 and is due on the first day of the month. The tenant paid a security deposit of \$300.00 at the beginning of the tenancy.

On July 16, 2016 the landlord posted a 10 Day Notice to End Tenancy for Non-Payment of Rent on the door of the rental unit. The tenant did not pay the outstanding rent nor did he file an application to dispute the notice.

The landlord filed a copy of two agreements between the tenant and herself wherein he acknowledges that the arrears of rent and late fees total \$5470.00. In the first agreement the tenant agrees to pay the August rent of \$575.00 and to move out on September 1. In the second agreement the tenant agrees to pay the September rent of \$575.00 and to move out October 1. The landlord testified that the tenant has made both payments as promised but she wants this tenancy to end on October 1.

The landlord also filed a ledger that confirmed that the arrears of rent and the late charges (which were in the amount allowed by the Regulation) are \$5470.00.

Analysis

I find that the tenant was served with a 10 Notice to End Tenancy for Non-Payment of Rent. The tenant did not pay the outstanding rent within the required time period and did not file an application to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. I also find that the payment of the rent in August and September did not reinstate the tenancy but was only to allow the tenant more time to move. Based on the above facts I find that the landlord is entitled to an order of possession effective October 1, 2016.

I also find that the landlord has established a total monetary claim of \$5570.00 comprised of arrears of rent, late fees, and the \$100.00 fee paid by the landlord for this application. I order that the landlord retain the deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$5270.00.

Conclusion

- a. An order of possession effective **1:00 pm, October 31, 2016** has been granted to the landlord. If necessary, this order may be filed in the Supreme Court and enforced as an order of that court.
- b. An order was made allowing the landlord to retain the security deposit in partial satisfaction of the monetary order.
- c. A monetary order for the balance owed by the tenant in the amount of **\$5270.00** has been granted to the landlord. If necessary, this order may be filed in the Small Claims Court 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: September 16, 2016

Residential Tenancy Branch