



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MAINSTREET EQUITY CORP.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Introduction

On September 30, 2016, the Landlord submitted an Application for Dispute Resolution for an order of possession, and for a monetary order for unpaid rent or utilities. The matter was set for a conference call hearing. The Landlord attended the teleconference hearing; however, the Tenant did not. The Landlord provided affirmed testimony that she served the Tenant with the Application for Dispute Resolution and Notice of Hearing, by registered mail sent on October 6, 2016. A Canada Post tracking number was provided as evidence of service. I find that the Tenant has been duly served with the Notice of Hearing in accordance with section 89 and 90 of the Act.

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

Preliminary and Procedural Matters

The Landlord testified that the Tenant moved out on November 14, 2016. The Landlord is no longer seeking an order of possession.

Issues to be Decided

Is the Landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The Landlord testified that the tenancy began on September 16, 2006. Rent in the amount of \$1,037.01 was payable on the first of each month. The Tenant paid the Landlord a security deposit of \$390.00. The Landlord provided a copy of the tenancy agreement.

The Landlord served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities ("the Notice") on the Tenant on September 8, 2016.

The Landlord testified that the Tenant was served with the Notice by posting it to the Tenant's door on September 8, 2016. The Landlord provided a proof of service document confirming service of the Notice.

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 Notice states that the Tenant has failed to pay rent in the amount of \$1,037.01.

There is no evidence before me that that the Tenant made an application to dispute the Notice.

The Landlord testified that the Tenant did not pay any rent to the Landlord after the Notice was issued.

The Landlord testified that the Tenant owes rent for September 1 2016. The Landlord testified that the Tenant did not pay any rent for October 2016, and November 2016. The Landlord requests to amend the Application to include the loss of rent for October 2016, and November 2016.

The Landlord also requests to retain the security deposit in partial satisfaction of the Landlord's monetary claim.

The Landlord seeks a monetary order for unpaid rent in the amount of \$3,111.03.

Analysis

Based on the evidence before me, and the testimony of the Landlord, and on a balance of probabilities, I find that the Tenant did not pay the outstanding rent within five days of receiving the 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 Tenant owes \$1,037.01 for September 2016, rent. I also find that the Tenant has not paid rent for the months of October 2016, and November 2016, and the Landlord will suffer a loss of rent for these months. The Tenant is aware that he/she is required to pay rent each month and therefore, pursuant to section 64 of the Act, I allow the claim to be amended to include two additional months of rent in the amount of \$2074.02.

I find that the Landlord has established a total monetary claim of \$3,111.03 for unpaid rent for the above mentioned dates. I grant the Landlord's request to keep the security deposit of \$390.00 in partial satisfaction of the monetary claim. I grant the Landlord a monetary order in the amount of \$2,721.03.

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 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.

The Landlord is granted a monetary order for the unpaid rent in the amount of \$2,721.03.

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: November 28, 2016

Residential Tenancy Branch