



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF MNDC MNR MNSD OPR

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. The hearing was conducted by conference call. Both parties attended the hearing and had an opportunity to be heard.

Issues

Is the party entitled to the requested orders?

Background and Evidence

This tenancy began on April 1, 2016. The rent is \$800 due in advance on the first day of each month. The tenant paid a security deposit of \$300 at the start of the tenancy. The tenant has not paid any rent for the months of July, August, September, October and November. On September 27, 2016 the landlord served the tenant with a Notice to End Tenancy for non-payment of rent by posting it on the tenant's door. The Notice indicated that the tenant owed \$2400 in unpaid rent. The tenant has not paid rent for the past five months and he did not file an application to dispute the Notice to End Tenancy.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

Order of Possession - Based on the above background, evidence and analysis I find that the landlord is entitled to an order of possession 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.

Monetary Order and Security Deposit - I find that the landlord has established a total monetary claim of \$4000 for the outstanding rent for July through November. The landlord is entitled to recover the \$100 filing fee for this application for a total award of \$4100. I order that the landlord retain the deposit and interest (\$0.00) of \$300 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$3800. 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: November 23, 2016

Residential Tenancy Branch