



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

On November 14, 2016, the Landlord submitted an Application for Dispute Resolution for an order of possession; for a monetary order for unpaid rent or utilities; to keep the security deposit; and to recover the cost of the filing fee. The matter was set for a conference call hearing.

The Landlords agent ("the Landlord") attended the teleconference hearing; however, the Tenant did not. The Landlord provided testimony that the Notice of Hearing was served to the Tenant by Registered Mail on November 18, 2016, and again on November 21, 2016. The Landlord provided copies of the registered mail receipts as proof of service. I find that the Tenant has been duly served with the Notice of Hearing in accordance with sections 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's request for compensation for January 2017, rent is dismissed as the Hearing took place prior to the date the rent was due.

The Landlord withdrew her request for an order of possession as she states that the Tenant vacated the rental unit on December 21, 2016.

The Landlord withdrew her request to keep the security deposit because she did not have the information before her to determine the amount of security deposit that the Tenant paid at the start of the tenancy.

The Landlord is seeking a monetary order for unpaid rent in the amount of \$1,800.00.

Issues to be Decided

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

Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

The Landlord testified that the owner of the property purchased the property in February 2016, and the tenancy was already established. She testified that the tenancy was a month to month tenancy. Rent in the amount of \$600.00 is payable on the first day of each month.

The Landlord testified that the Tenant did not pay any rent for the months of October 2016, and November 2016, and December 2016.

The Landlord testified that the Tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated October 20, 2016, ("the Notice") on October 20, 2016. The Landlord testified that the Tenant was served with the Notice by posting it to the Tenant's door.

The Notice states that the Tenant has failed to pay rent in the amount of \$600.00 which was due on October 1, 2016. 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.

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

The Landlord testified that the Tenant has not paid any amount of money towards the rent since the 10 Day Notice was issued.

The Landlord testified that the Tenant owes rent money for the following months:

- October 2016, in the amount of \$600.00
- November 2016, in the amount of \$600.00
- December 2016, in the amount of \$600.00

The Landlord seeks a monetary order for unpaid rent in the amount of \$1,800.00.

Analysis

Based on the evidence before me, 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 the Landlord \$1,800.00 for unpaid rent.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I find that the Landlord has established a total monetary claim of \$1,900.00 comprised of \$1,800.00 in unpaid rent for the above mentioned dates and the \$100.00 fee paid by the Landlord for this hearing. I grant the Landlord a monetary order of \$1,900.00. 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 the 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 and the cost of the filing fee in the amount of \$1,900.00.

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: December 30, 2016

Residential Tenancy Branch