



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SKC HOLDINGS INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

The landlord applies for an order of possession pursuant to a ten day Notice to End Tenancy for unpaid rent served September 2, 2017 and for a monetary award of \$1450.00 for unpaid September rent.

Both parties attended the hearing, the landlord by its authorized representative, and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

Issue(s) to be Decided

Has the tenancy ended as a result of the Notice? Is the landlord owed September rent?

Background and Evidence

The rental unit is a two bedroom apartment. The tenancy started August 6, 2017 for a one year term at a monthly rent of \$1450.00, due on the first of each month. The landlord holds a \$750.00 security deposit.

The central facts are not in dispute. The tenant did not pay the September rent. She received the ten day Notice on September 2nd and did not either apply to cancel the Notice or pay the \$1450.00 demanded in it within the following five days.

Since then, she has continued to reside in the premises but is currently in the process of moving out.

She has made three payments totalling \$1130.00 in September and October.

Analysis

Section 46 of the *Residential Tenancy Act* (the “Act”) is strict; if a tenant fails to either pay the amount demanded in a ten day Notice within five days or fails to apply to cancel the Notice within five days, she is “conclusively presumed” to have accepted the end of the tenancy.

This tenancy therefore ended on September 13, 2017. The landlord is entitled to and will have an order of possession.

The tenant’s payments since September 2 must be applied to her oldest debt to the landlord. That is the September rent. The tenant owes the landlord \$320.00 for the remainder of September rent.

I award the landlord \$320.00 plus recovery of the \$100.00 filing fee. I authorize the landlord to retain \$420.00 from the \$750.00 security deposit it holds, in full satisfaction of this award.

It appears that no rent or occupation rent has been paid by the tenant for October. The landlord is free to apply in that regard.

Conclusion

The application is allowed.

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: October 13, 2017

Residential Tenancy Branch