



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 for Dispute Resolution by the landlord for an order of possession, for a monetary order for unpaid rent, for an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee from the tenant.

Although served with the Application for Dispute Resolution and Notice of Hearing, in person, on July 18, 2017, the tenant did not appear. I find that the tenant has been duly served in accordance with the Act.

The landlord, gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

Issues to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

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

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

Based on the testimony of the landlord, I find that the tenant was served with a notice to end tenancy for non-payment of rent on July 6, 2017, in person. 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 landlord testified that when the tenant was served with the notice to end tenancy the tenant owed \$750.00 in rent. The landlord stated that they received \$250.00 on July 17, 2017 and another payment of \$250.00 on July 28, 2017, leaving the outstanding amount of \$250.00. The landlord stated that they tenant did not pay the full amount within five days. The landlord seeks an order of possession.

The landlord testified that the tenant paid rent as follows

Rent month 2017	Rent due	Payments	Balance owed
July	\$750.00	\$500.00	\$250.00
August	\$750.00	\$200.00 paid August 13 \$1,000.00 paid August 25	Credit \$200.00
September	\$750.00	\$1,000.00 paid September 27	Credit \$400.00
October	\$750.00	None (date of hearing)	\$300.00

The landlord stated that they were not reinstating the tenancy, as the tenant owes a large amount in unpaid utilities. The landlord seeks a monetary order for unpaid rent.

Analysis

Based on the above, the testimony, and evidence, and on a balance of probabilities, I find as follows:

The tenant did not paid the outstanding rent within five days, 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 landlord is entitled to an order of possession, pursuant to section 55 of the Act, 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.

I find that the landlord established a total monetary claim of **\$400.00** comprised of unpaid rent, and the \$100.00 fee paid by the landlord for this application.

I order that the landlords retain the security deposit of \$325.00 in partial satisfaction of the claim and I grant the landlord an order pursuant to section 67 of the Act, for the balance due of \$75.00. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

The landlord is at liberty to apply for unpaid utilities.

Conclusion

The tenant failed to pay rent and did not file to dispute the notice to end tenancy. The tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlord is granted an order of possession, and may keep the security deposit and interest in partial satisfaction of the claim. I grant a monetary order for the balance due.

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 16, 2017

Residential Tenancy Branch