



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 or utilities, 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, by registered mail, sent on May 6, 2019 and successfully delivered on May 9, 2019, the tenant did not appear. A Canada post tracking history was provided as evidence of service. 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?

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 April 14, 2019 by posting to the door, which was witnessed. 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. Filed in evidence is copy of the 10 Day Notice to End Tenancy for Unpaid Rent issued on April 14, 2019 and a copy of the proof of service.

The landlord testified that rent is \$500.00 per month. The landlord stated that the tenant did not pay all rent for December 2018, and the balance owed for December 2018, was the amount of \$180.00. The landlord stated the tenant did not pay rent for January, February, March, April and was served with the notice to end tenancy in the amount of \$2,180.00.

The landlord testified that the tenant was going to pay a portion of the unpaid rent; however, the tenant demanded that the notice to end tenancy be ripped up. The landlord stated that they informed the tenant that they would not be cancelling the notice to end tenancy and as a result the tenant did not make the partial payment.

The landlord testified that the tenant has failed to pay subsequent rent for May and June 2019 (\$1,000.00). The landlord seeks an order of possession and a monetary for unpaid rent in the amount of \$3,280.00.

Analysis

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

The tenant has not paid the outstanding rent, 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 have reviewed the 10 Day Notice to End Tenancy for Unpaid Rent and the notice complies with section 52 of the Act.

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. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

I find the tenant has breached section 26 of the Act, when they failed to pay all rent owed for December 2018, and any subsequent rent from January 2019 to June 2019, inclusive. Therefore, I find the landlord is entitled to recover unpaid rent in the amount of **\$3,280.00**.

I find that the landlord has established a total monetary claim of **\$3,380.00** comprised of unpaid rent and the \$100.00 fee paid by the landlords for this application.

I order that the landlord retain the security deposit of \$250.00 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 **\$3,030.00**. This 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 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: June 14, 2019

Residential Tenancy Branch