



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, in person on January 8, 2020, which was witnessed 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?

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 January 1, 2020, by personal service, which was witness.

Filed in evidence is a copy of the notice to end tenancy and a proof of service which support the testimony of the landlord.

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 stated that the tenancy began December 2017. Rent in the amount of \$4,500.00 was payable on the first of each month. A security deposit of \$2,250.00 was paid by the tenant.

The landlord stated that the tenant started to fall behind in rent in the June 2018, as there was did not pay any rent for August and September 2018, leaving a balance of unpaid rent for 2018, in the amount of \$11,000.00.

The landlord stated that the tenant has been making payment towards rent in 2019; however, the tenant was falling further behind in the rent. The landlord stated that since October 2019, the tenant has paid nothing in rent. The landlord stated that the total rent owed for 2018 and 2019 is the total amount of \$29,500.00.

Filed in evidence is an excel spreadsheet showing payments received and the balance owed this includes rent for January 2020, which supports the testimony of the landlord.

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 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 the tenancy legally ended on January 10, 2020 and the tenant is now overholding the premise.

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 that the landlord has established a total monetary claim of \$29,600.00 comprised of unpaid rent up to and including January 2020, and the \$100.00 fee paid by the landlord for this application.

I order that the landlord retain the security deposit of \$2,250.00 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 **\$27,350.00**. 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: January 29, 2020

Residential Tenancy Branch