



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Notice”) issued on July 26 2022, for a monetary order for unpaid rent or utilities, and to recover the filing fee from the tenant(s).

Both parties appeared gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and 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

The tenancy began on July 1, 2006. Current rent in the amount of \$774.00.00 was payable on the first of each month. A security deposit of \$375.00 was paid by the tenant.

Counsel for the landlord submits that the tenants were served with the Notice on July 28, 2022, and that the tenants did not pay the rent or any subsequent rent. Counsel submits the tenants owe the landlord \$13,932.00. Filed in evidence is a copy of the Notice, which complies with section 52 of the Act.

The tenant testified that they received the Notice. The tenant stated that they did not pay the outstanding rent and have not paid any rent since receiving the Notice. The tenant agreed that they owe the landlord outstanding rent in the amount of \$13,932.00.

Analysis

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

Based on the testimony of the parties, I find that the tenants were served with the Notice on July 28, 2022, by posting to the door by a process server. The Notice informed the tenants that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the tenants had five days to dispute the Notice.

The tenants have not paid the outstanding rent and did not apply to dispute the notice and are 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 August 8, 2022, the date within 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 tenants. 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 is entitled to a monetary order, pursuant to section 55 and 67 of the Act for unpaid rent in the amount of \$13,932.00.

I find that the landlord has established a total monetary claim of \$14,032.00 comprised of unpaid rent, and the \$100.00 fee paid by the landlord for this application.

I order that the landlord retain the security deposit of \$375.00 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 \$13,657.00. 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 tenants failed to pay rent and did not file to dispute the notice to end tenancy. The tenants are 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: May 01, 2023

Residential Tenancy Branch