



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes:

MNR

OPR

MNSD

FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on the Notice to End Tenancy for Unpaid Rent dated Jan 7, 2009, a monetary order for rent owed and an order to retain the security deposit in partial satisfaction of the claim.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on January 19, 2009, the tenant did not appear.

Issue(s) to be Decided

The landlord is seeking an Order of Possession. The landlord is also seeking a monetary order claiming unpaid rental arrears of two months as of January 19, 2009 in the amount of \$2,400.00.

The issues to be determined based on the testimony and the evidence are:

Whether or not the landlord is entitled to an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent

Whether or not the landlord is entitled to monetary compensation for rental arrears owed and loss of rent

Background and Evidence

The landlord advised that the tenants have now vacated the unit. The landlord did not submit a copy of the tenancy agreement but testified that the tenancy began on February 1, 2008, at which time the tenant paid a security deposit of \$600.00. The landlord testified that the tenant failed to pay rent owed and fell into arrears of \$2,400.00 and that a Notice to End Tenancy was issued. The landlord submitted into evidence a copy of the 10-Day Notice to End Tenancy dated January 7, 2009 with effective date of January 17, 2009. The landlord testified that under the tenancy agreement, the tenant also owes utilities but no evidence was provided.

Analysis

Based on the testimony of the landlord, I find that the tenant was served with a Notice to End Tenancy for Unpaid Rent by posting it on the door. 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. Based on the above facts I find that the landlord is entitled to an Order of Possession.

I find that the landlord is entitled to receive \$2,400.00 for the rental arrears. In regards to the utilities owed, I make no findings and the landlord is at liberty to include this claim should the landlord decide to seek compensation for any further damages that may exist in regards to this tenancy.

I find that the landlord has established a total monetary claim of \$2,450.00 comprised of \$2,400.00 rental arrears as of January 2009 and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the security deposit and interest of \$608.24 in partial satisfaction of the claim leaving a balance due of \$1,841.76

Conclusion

I hereby issue an Order of Possession in favour of the landlord effective two days after service on the tenant. .This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

I hereby grant the Landlord an order under section 67 for \$1,841.76. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

February 2009

Date of Decision

Dispute Resolution Officer