



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 January 2, 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 in person on January 21, 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 rent of \$881.00 each month for the month of January 2009 and February 2009 and \$40.00 for late fees owed by the tenant.

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

Whether or not the landlord is entitled to late fees of \$20.00 per month

Background and Evidence

The landlord submitted into evidence a copy of the 10-Day Notice to End Tenancy dated January 2, 2009 with effective date of January 12, 2009, a copy of the resident ledger, a copy of the tenancy agreement. The landlord testified that the tenancy began on March 1, 2006, at which time the tenant paid a security deposit of \$415.00. The landlord testified that the tenant failed to pay \$881.00 rent for the month of January 2009 and \$881.00 for the month of February 2009 amounting to a total of \$1,762.00. The landlord testified that under the tenancy agreement, the tenant also owes \$20.00 late fees for January 2009 and \$20.00 late fees for February 2009. The landlord testified that the tenant has not vacated the unit and the landlord has requested an Order of Possession..

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 rental arrears of \$1,762.00 for January and February 2009. In regards to the late fees, I note that the tenancy agreement provides for this charge and the landlord is entitled to \$40.00 for January and February 2009.

I find that the landlord has established a total monetary claim of \$1,852.00 comprised of rental arrears, late fees and the \$50.00 fee paid by the landlord for

this application. I order that the landlord retain the security deposit and interest of \$429.35 in partial satisfaction of the claim leaving a balance due of \$1,359.65.

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 \$1,359.65. 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