



Dispute Resolution Services

Residential Tenancy Branch
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 February 3, 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 February 3, 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 and late fees including \$452.00 rent and late charges for February 2009, \$701 rental arrears and late fees for March 2009 and \$701.00 rental arrears and late fees for April 2009 totaling \$1,854.00.

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.

Whether or not the landlord is entitled to late fees under the tenancy agreement.

Background and Evidence

The landlord submitted into evidence a copy of the 10-Day Notice to End Tenancy dated February 3, 2009 with effective date of February 13, 2009 and a copy of the tenancy agreement. The landlord testified that the tenancy began on July 25, 2006, at which time the tenant paid a security deposit of \$325.00 and pet damage deposit of \$200.00. The landlord testified that the tenant failed to pay all of the rent owed for the months of February 2009, March 2009 and April 2009 amounting to a total of \$1,779.00 in rent and that under the tenancy agreement, the tenant also owes \$75.00 late fees for February, March and April 2009. The landlord testified that the tenant recently paid a portion of the arrears with a money order for \$780.00. The tenant still owes \$348.00 rental arrears and \$25.00 late charges for March 2009, and \$676.00 rent and \$25.00 late charges for the month of April 2009 reducing the total debt to \$1,074.00. However, 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.

After applying the recent payment, I find that the landlord is entitled to receive \$439.00 remaining arrears for the month of March 2009, \$676.00 rent for April 2009 and \$50.00 late payment charges for March and April 2009.

I find that the landlord has established a total monetary claim of \$1,215.00 comprised of \$1,115.00 rental arrears, \$50.00 late charges and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the security and pet damage deposits and interest of \$542.07 in partial satisfaction of the claim leaving a balance due of \$672.93.

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 \$672.93. 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.

April 2009

Date of Decision

Dispute Resolution Officer