



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute codes OP MNR MNSD FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. Both parties attended the hearing and had an opportunity to be heard.

Issues

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Is the landlord entitled to an order allowing retention of the security deposit?

Background and Evidence

This tenancy began on April 1, 2009. The rent is \$825.60 due in advance on the first day of each month. A security deposit of \$350.00 was paid at the start of the tenancy. On July 3, 2010 the tenant was served with a Notice to End Tenancy for non-payment of rent. The tenant has not paid the outstanding rent and did not file an application to dispute the Notice.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Normally, in a case such as this one, the landlord would be entitled to an order of possession effective within two days of service. However, the landlord has specifically requested that the order be effective September 14, 2010.

Conclusion

Order of Possession - Based on the above background, evidence and analysis I find that the landlord is entitled to an order of possession effective September 14, 2010. This order may be filed in the Supreme Court and enforced as an order of that Court.

Monetary Order and Security Deposit - I find that the landlord has established a total monetary claim of \$390.00 comprised of \$340.00 in unpaid rent and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the deposit and interest of \$350.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$40.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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*.