



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession, a monetary order for unpaid rent, and to recover the filing fee.

Both parties appeared, gave affirmed 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 to me.

Issue(s) to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlord to an Order of Possession and monetary relief?

Background and Evidence

This tenancy began, according to the Landlord's testimony, in September or October 2009, on a month to month basis. Monthly rent is \$775.00 and a security deposit of \$387.50.00 was paid on at the start of the tenancy.

Based on the affirmed testimony of the Landlord, I find that the Tenant was served with a 1 Month Notice to End Tenancy for Cause (the "Notice") on November 26, 2010, by placing in the mail slot of the Tenant's rental unit. The Notice explains that the Tenant had ten days to dispute the Notice. It also explains that if the Tenant does not file an Application to Dispute the Notice within ten days, then the Tenant is conclusively presumed to have accepted the end of the tenancy and must vacate the rental unit by the effective date of the Notice. The effective end date on the Notice was December 31, 2010.

The Landlord testified that the Tenant has not paid rent on time in any month during 2010, and has not paid rent at all since August 2010. The Landlord testified that the current amount of unpaid rent was \$5,478.00.

I allowed the Landlord to amend his Application to include a request for an order of possession for Landlord's Cause.

The Tenant appeared and did not dispute the testimony of the Landlord, but testified that he has had difficulty in paying the rent due to ongoing financial problems due to the current economy and being a single father.

Analysis

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

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence **relevant** to the issues and findings in this matter are described in this Decision.

I find the Tenant failed to apply to dispute the Notice, and therefore, is conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice, on December 31, 2010, and that he is now overholding in the rental unit. I further find that the Tenant has not paid the outstanding rent owed to the Landlord and, in the absence of dispute from the Tenant, the amount of unpaid rent owed to the Landlord is \$5,478.00.

Conclusion

I find that the Landlord is entitled to an order of possession effective **two days** after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

I find that the Landlord has established a total monetary claim of **\$5,528.00** comprised of unpaid rent of \$5,478.00 and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord retain the deposit of **\$387.50** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$5,140.50**.

This order may be filed in the Provincial Court (Small Claims) 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*.

Dated: February 03, 2011.

Residential Tenancy Branch