



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

Decision

Dispute Codes:

MNR, OPR, 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, 2011, a monetary order for rent owed and the cost of the application.

Both parties appeared and gave testimony during the conference call.

Issue(s) to be Decided

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.

Background and Evidence

The landlord submitted into evidence a copy of the 10-Day Notice to End Tenancy dated February 3, 2011 with effective date of February 13, 2011 and a copy of the tenancy agreement. The landlord testified that the tenancy began on March 21, 2010. The current rent is \$275.00 and the remaining security deposit still being held is \$110.00. The landlord testified that the tenant fell into arrears and owed \$25.00 plus the \$275.00 rent for February and a Ten Day Notice to End Tenancy for Unpaid Rent was issued. The landlord testified that the tenant subsequently paid \$275.00 but this was received after the five-day deadline to cancel the Notice. According to the landlord, the tenant was advised that if the rent for February was paid, he could remain until the end of the month, but that the tenancy was not being reinstated. The landlord testified that the tenant did not pay the remaining \$25.00 owed and now owes \$275.00 rent for the month of March 2011. The landlord testified that the tenant has not vacated the unit and the landlord has requested an Order of Possession.

The tenant did not dispute that all of the arrears were unpaid after the five-day deadline under the Act to cancel the Notice. The tenant acknowledged that no rent was paid for the month of March. However, the tenant stated that there had been a verbal agreement that he could remain as a tenant if he paid all of the arrears. The landlord disputed this testimony.

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 putting it under the door on February 3, 2011. I find that the Notice was served on February 6, 2011 and the tenant did not pay all of the outstanding rental arrears within 5 days and did not apply to dispute the Notice. The tenant 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 has established a total monetary claim of \$350.00 comprised of \$300.00 accrued rental arrears and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the security deposit of \$110.00 in partial satisfaction of the claim leaving a balance due of \$240.00.

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 \$240.00. 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.

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: March 2011.

Residential Tenancy Branch