



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

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

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail on March 17, 2011, the Tenant did not appear. The Landlord provided a tracking number for the registered mail and I was satisfied that the Tenant had been served in accordance with Section 89 of the Residential Tenancy Act (the "Act").

The Landlord appeared, gave affirmed testimony and was provided the opportunity to present his evidence orally and in written and documentary form, and make submissions to me.

Issue(s) to be Decided

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

Background and Evidence

This one year fixed term tenancy began on November 1, 2009, and continues now on a month to month basis. Monthly rent is \$1,150.00 and a security deposit of \$575.00 was paid by the Tenant on October 27, 2009.

The Landlord gave affirmed testimony and supplied evidence that the Tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") on March 10, in person. The Notice stated the amount of unpaid rent was \$4,224.42.

The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explained the Tenant had five days to dispute the Notice.

I have no evidence before me that the Tenant applied to dispute the Notice. The Landlord provided evidence and gave affirmed testimony that the Tenant has gradually accumulated this amount of unpaid rent listed, from the beginning of the tenancy, by making partial, incomplete payments. The account ledger sheet indicates that the

Tenant made no payments in November and December 2010, and paid \$400.00 for the March rent payment. The Landlord stated that the Tenant failed to pay rent in April and I have allowed him to amend his application to include a claim for the April 2011, rent.

Analysis

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

The Tenant has not paid the accumulated, outstanding rent listed on the Notice 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.

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 **\$5,424.42** comprised of outstanding, accumulated rent listed on the Notice of **\$4,224.42**, unpaid rent for April 2011 of **\$1,150.00**, and the **\$50.00** fee paid by the Landlord for this application.

I allow the Landlord to retain the deposit and interest of \$575.00 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$4,849.42**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The Landlord is granted an Order of Possession, may keep the security deposit and interest in partial satisfaction of the claim and is granted a monetary order for the balance due of **\$4,849.42**.

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: April 05, 2011.

Residential Tenancy Branch