



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords for a monetary order for unpaid rent and an order of possession.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail on June 27, 2011, the tenant did not appear. The landlord provided a tracking number, testified that the mail was sent to the address at which the tenant resided and successfully demonstrated sufficient delivery of the documents under Section 89 of the Residential Tenancy Act (the "Act"). Thus the hearing proceeded in the tenant's absence.

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

Preliminary Issue #1:

The landlord stated that the tenant had vacated the rental unit without notice on or about July 3, 2011, and that she no longer needed an order of possession. As a result, I have amended her application to exclude a request for an order of possession.

Preliminary Issue #2:

The landlord amended her application to include a request for an order for unpaid rent for July and for damages to the rental unit. However, the amended application was not properly served upon the tenant according to Section 89 of the Act. I therefore have declined to consider the amended application regarding the alleged damages and proceeded on the original application. The tenant is at liberty to file another application to deal with other monetary issues, such as alleged damages.

Issue(s) to be Decided

Has the tenant breached the Act or tenancy agreement, entitling the landlord to an order for monetary relief?

Background and Evidence

This month to month tenancy began on May 1, 2009, and ended on or about July 3, 2011, when the tenant vacated the rental unit. Monthly rent was \$1,100.00 and a security deposit of \$550.00 was paid by the tenant on April 15, 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 June 9, 2011, by posting on the door. The Notice stated the amount of unpaid rent was \$1,100.00 as of June 1, 2011. I note that the move out date on the copy supplied by the landlord was not filled out, but the landlord testified that the Notice received by the tenant contained the effective move out date of June 15, 2011. I accept this testimony.

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 affirmed testimony that the tenant did not make any further rent payments after receiving the Notice and now owed rent for the month of July as well as for June.

Analysis

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

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. The tenant stayed in the rental unit until some point in July and now owes rent for July.

I find that the landlord has established a total monetary claim of **\$2,250.00** comprised of outstanding rent of **\$2,200.00** for June and July and the **\$50.00** fee paid by the landlord for this application.

Conclusion

I allow the landlord to retain the security deposit of \$550.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$1,700.00**.

I am enclosing a monetary order for **\$1,700.00** with the landlords' Decision. This order is a **final, legally binding order**, and may be filed in the Provincial Court (Small Claims) should the tenant fail to comply with this monetary order.

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: July 21, 2011.

Residential Tenancy Branch