



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's application for an Order of Possession and a Monetary Order for unpaid rent. The tenant did not appear at the hearing. The landlord provided a registered mail receipt, including tracking number, as evidence that the hearing documents were sent to the tenant via registered mail on June 18, 2012 at the rental unit. The landlord testified the registered mail was not returned. I was satisfied the tenant has been sufficient served with notice of this hearing and I proceeded to hear from the landlord without the tenant present.

During the hearing the landlord requested the application be amended to include a request to retain the security deposit in partial satisfaction of the outstanding rent. I found such an amendment not prejudicial to the tenant and agreed to consider such in reaching my decision.

Issue(s) to be Decided

1. Are the landlords entitled to an Order of Possession for unpaid rent?
2. Are the landlords entitled to a Monetary Order for unpaid rent?
3. Are the landlords authorized to retain the security deposit in partial satisfaction of the outstanding rent?

Background and Evidence

The landlords provided the following undisputed evidence: The tenancy commenced January 26, 2012 and the tenant paid a security deposit of \$250.00. The tenant is required to pay rent of \$500.00 on the 26th day of every month. The tenant did not pay rent May 26, 2012 and on May 31, 2012 the landlord posted both pages of a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) on the tenant's door in the presence of a witness. The Notice indicates \$500.00 was outstanding as of May 26, 2012 and has a stated effective date of May 31, 2012. The tenant did not pay the outstanding rent or any rent after the 10 Day Notice was posted and continues to occupy the rental unit.

The landlord is seeking to recover the unpaid rent of \$500.00 owed as of May 26, 2012 plus loss of rent of \$500.00 for the subsequent month since the tenant continues to occupy the rental unit.

Analysis

When a tenant receives a 10 Day Notice the tenant has five days to pay the outstanding rent to nullify the Notice or the tenant has five days to dispute the Notice by filing an Application for Dispute Resolution. If a tenant does not pay the outstanding rent or dispute the Notice within five days then, pursuant to section 46(5) of the Act, the tenant is conclusively presumed to have accepted the tenancy will end and must vacate the rental unit by the effective date of the Notice.

I note the stated effective date on the Notice of May 31, 2012 is incorrect. In accordance with sections 90 and 53 of the Act the effective date has automatically changed to read June 8, 2012.

Since the tenant did not pay the outstanding rent or dispute the Notice I find the tenancy ended on June 8, 2012 and the landlords are entitled to regain possession of the rental unit. Provided with this decision is an Order of Possession effective two (2) days after service upon the tenant.

Based upon the undisputed evidence before me, I find the landlords entitled to recover unpaid rent due on May 26, 2012. I also find the landlords entitled recover loss of rent for the following month since the tenant continues to occupy the rental unit. Therefore, I grant the landlords' request to recover unpaid rent and loss of rent of \$1,000.00 from the tenant.

I authorize the landlords to retain the tenant's security deposit in partial satisfaction of the rent owed the landlord. I also award the landlords the filing fee paid for this application.

In light of the above, the landlords are provided a Monetary Order calculated as follows:

Unpaid rent and loss of rent	\$ 1,000.00
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Filing fee	50.00
Less: security deposit	<u>(250.00)</u>
Monetary Order	\$ 800.00

The landlords must serve the Monetary Order upon the tenant and may enforce it in Provincial Court (Small Claims) as necessary.

Conclusion

The landlords have been provided an Order of Possession effective two (2) days after service upon the tenant. The landlords have been authorized to retain the tenant's security deposit and have been provided a Monetary Order for the balance of \$800.00 to serve upon the tenant.

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 10, 2012.

Residential Tenancy Branch