

DECISION

Dispute Codes OPR, MNR, MNDC, MNSD, FF

Introduction

This is an application filed by the Landlord for an order of possession and a monetary order for unpaid rent, to keep all or part of the security deposit and recovery of the filing fee.

The Landlord attended the hearing by conference call and gave undisputed testimony. The Tenant did not attend or submit any documentary evidence. The Landlord states that the Tenant was personally served with the notice of hearing and evidence package on September 14, 2012. The Landlord states that the Tenant vacated the rental unit sometime in the early part of October 2012 without providing a forwarding address. I accept the undisputed testimony of the Landlord and find that the Tenant was properly served with the notice of hearing and evidence package as deemed under the Act on September 14, 2012.

Issue(s) to be Decided

Is the Landlord entitled to a monetary order?

Is the Landlord entitled to retain the security deposit?

Background, Evidence and Analysis

The Landlord states that the Tenancy began on January 27, 2005 on a month to month basis as shown by the submitted copy of the signed tenancy agreement. The Landlord stated in his direct testimony that a \$400.00 security deposit was paid at that time. The Landlord also states that the current monthly rent is \$850.00.

The Landlord states that the Tenant was served with a 10 day notice to end tenancy for unpaid rent or utilities dated September 4, 2012 by posting it to the rental unit door on the same date with a witness. The Landlord has submitted proof of service document to reflect this. The notice states that rent of \$850.00 was due on September 1, 2012 which remains outstanding. The effective date of the notice is September 17, 2012. The Landlord claims that the Tenant vacated the rental sometime in early October without notice.

The Landlord seeks a monetary order of \$1,725.00 consisting of unpaid rent of \$850.00 for September 2012 and \$875.00 for October 2012.

I accept the undisputed testimony of the Landlord and find that the Tenant was served on September 4, 2012 with the 10 day notice to end tenancy for unpaid rent. The Tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice. The Tenant is conclusively presumed to have accepted that the Tenancy ended on September 17, 2012. I find that the Tenant over-held the rental unit into early October 2012. Based upon the above, I find that the Landlord has established a claim for unpaid rent of \$1,700.00 consisting of \$850.00 for September and \$850.00 for October. The Landlord has failed to satisfy me of the claim for the \$25.00 rent increase for the month of October. The \$25.00 additional portion of the October rent is dismissed. The Landlord is also entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$400.00 security deposit and the \$14.16 in accrued interest which has accrued to the date of this judgement in partial satisfaction of the claim and I grant a monetary order under section 67 for the balance due of \$935.84. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Landlord is granted a monetary order for \$935.84.
The Landlord may retain the security deposit.

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: October 17, 2012.

Residential Tenancy Branch