



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 an application by the landlord for an order of possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. The hearing was conducted by conference call. The landlord called in and participated in the hearing. The tenant did not appear although he was personally served with the Application for Dispute Resolution and Notice of Hearing on October 23, 2012.

Issues

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Is the landlord entitled to an order allowing retention of the security deposit?

Background and Evidence

The landlord was not sure when the tenancy began. He thought it started several months ago. He said that there is a written tenancy agreement, but he did not have a copy with him at the time of the hearing. The rent is \$650.00 due in advance on the first day of each month. The tenant paid a security deposit of \$325.00 at the start of the tenancy. The tenant paid only \$620.00 rent for September, leaving \$30.00 out standing. He did not pay rent for October when it was due. On October 10, 2012 the landlord served the tenant with a Notice to End Tenancy for non-payment of rent by attaching it to the door of the rental unit. On October 23, 2012 the tenant paid the landlord \$200.00. The tenant paid a further \$300.00 on November 15, 2012, but he did not pay November rent when it was due on November 1st. The tenant did not file an application to dispute the Notice to End Tenancy.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute

Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

Order of Possession - Based on the above background, evidence and analysis 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.

Monetary Order and Security Deposit – According to the landlord \$680.00 was outstanding for September and October. The tenant paid \$500.00 towards the rent, leaving \$180.00 due for October and \$650.00 due for November. I find that the landlord has established a total monetary claim of \$830.00 for the outstanding rent for October and November. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$880.00. I order that the landlord retain the deposit and interest of \$325.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$555.00. This order may be filed in the Small Claims Court 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: November 28, 2012.

Residential Tenancy Branch