



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPR, MND, MNR, MNSD, FF

Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties.

The Tenant's Application requested an order to cancel a 10 day Notice to End Tenancy for unpaid rent.

The Landlord filed their Application for an order of possession based on unpaid rent, and requested monetary orders for unpaid rent for December 2012 and January 2013, and to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

Only the Landlord appeared at the hearing. They gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Landlord testified he served the Tenant with the Notice of Hearing and his Application by registered mail, sent on December 28, 2012. Under the Act, the Tenant was deemed served five days after mailing. Furthermore, as the Tenant made his own Application, which was joined to be heard with the Landlord's Application, he was provided with a Notice of Hearing for the same time and date in his own matter. Therefore, I find the Tenant has been duly served with the Notice of Hearing and Application of the Landlord.

I find that since there was no appearance by the Tenant, his Application for Dispute Resolution is dismissed without leave to reapply.

Issue(s) to be Decided

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

Background and Evidence

Based on the testimony and evidence submitted by the Landlord, I find that the Tenant was served with a 10 day Notice to End Tenancy for non-payment of rent on December 2, 2012. The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenant had five days to dispute

the Notice. As described above, the Tenant filed an Application for Dispute Resolution to dispute the Notice, but did not attend the hearing and therefore his Application has been dismissed.

The Landlord provided testimony that the Tenant also failed to pay January 2013 rent, and in evidence the Landlord submitted a further 10 day Notice for unpaid January 2013 rent. The Landlord submits that the Tenant has told him he will not pay any rent.

Analysis

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

The Tenant has not paid the outstanding rent, and his Application to dispute the Notice is dismissed without leave to reapply because he failed to attend the hearing.

Therefore, pursuant to section 55 of the Act, 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 further find that the Landlord has established a total monetary claim of **\$562.86** comprised of \$62.86 for December 2012, \$450.00 for January 2013, and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord retain the deposit of **\$225.00** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$337.86**. This may be filed and is enforceable in the Provincial Court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: January 10, 2013

Residential Tenancy Branch