



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes:

MNR, OPR, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession based on the Notice to End Tenancy for Unpaid Rent dated, December 29, 2012, a monetary order for rent owed and compensation for anticipated loss of revenue.

The applicant was present and participated in the hearing. Despite being served with the Notice of Hearing documents by registered mail sent on January 4, 2013, as verified by the Canada Post tracking slip, the respondent did not appear and the hearing was therefore conducted in the respondent's absence.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession based on the 10-Day Notice to End Tenancy for Unpaid Rent?

Is the landlord entitled to monetary compensation for rental arrears owed?

Is the landlord entitled to monetary compensation for future loss of revenue?

Background and Evidence

The landlord submitted into evidence, a copy of the 10-Day Notice to End Tenancy dated December 29, 2012 with effective date of January 8, 2013, copies of cheques, copies of communications and proof of service.

The landlord testified that the tenancy began approximately 7 years ago. The rent is \$700.00 and no security deposit was paid.

The landlord testified that the tenant failed to pay \$700.00 rent due on December 1, 2012 and the landlord served a 10-Day Notice to End Tenancy for Unpaid Rent in person on December 29, 2012.

The landlord testified that the tenant also failed to pay rent owed for January 2013, amounting to an additional \$700.00 in arrears, which is being claimed. The landlord testified that the tenant has not vacated the unit and the landlord has requested an Order of Possession.

The landlord was seeking an additional \$700.00 for the anticipated loss of revenue for February 2013 because she was not able to show the unit to potential renters due to the tenant's refusal to vacate or cooperate.

Analysis

Based on the testimony of the landlord, I find that the tenant was served with a Notice to End Tenancy for Unpaid Rent. The tenant has not paid the arrears 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. Based on the above facts I find that the landlord is entitled to an Order of Possession.

I find that the landlord has established a total monetary claim of \$1,450.00 comprised of \$1,400.00 accrued rental arrears and the \$50.00 fee paid by the landlord for this application.

I find that the landlord's claim for \$700.00 for loss of rent for February is premature at this time and must be dismissed with leave.

I hereby grant the Landlord an order under section 67 for \$1,450. This order must be served on the Respondent and is final and binding. If necessary it may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

I hereby issue an Order of Possession in favour of the landlord effective two days after service on the tenant. This order must be served on the Respondent and is final and binding. If necessary it may be filed in the Supreme Court and enforced as an order of that Court.

Conclusion

The landlord's application is partially successful in the application and is granted a monetary order for rental arrears and an Order of Possession. The remainder of the landlord's claim is dismissed with leave.

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: January 30, 2013

Residential Tenancy Branch

