



Dispute Resolution Services

Page: 1

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 January 4, 2013 and a monetary order for rental arrears owed.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The participants had an opportunity to submit documentary evidence prior to this hearing, and all evidence properly served has been reviewed. The parties were also permitted to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the relevant evidence and testimony provided.

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?

Background and Evidence

The landlord submitted into evidence a copy of the 10-Day Notice to End Tenancy dated January 4, 2013, with effective date of January 14, 2013, copies of communications and a copy of the tenancy agreement. The landlord testified that the tenancy began on October 5, 2012, at which time the tenant paid a security deposit of \$375.00. The landlord testified that the tenant failed to pay \$730.00 for January 2013, after which a 10-Day Notice to End Tenancy for Unpaid Rent was served on the tenant. The landlord testified that the tenant failed to pay \$730.00 due on February 1, 2013, as well.

The landlord testified that the tenant did make one payment of \$400.00 towards the arrears on February 4, 2013. The landlord testified that they advised the tenant that this payment was being accepted "*use and occupancy only*" and did not function to reinstate the tenancy.

The landlord testified that the tenant currently owes rental arrears amounting to \$1,060.00 which is being claimed. The landlord testified that the tenant has not vacated the unit and the landlord requested an Order of Possession.

The tenant did not dispute that they are in arrears for rent being claimed by the landlord.

Analysis

Based on the testimony of the landlord, I find that the tenant was personally served with a Notice to End Tenancy for Unpaid Rent on January 4, 2013. The tenant has not paid all of the outstanding rent 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 \$1,110.00 comprised of \$1,060.00 in accrued rental arrears and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the tenant's \$375.00 security deposit in satisfaction of the claim, leaving a balance still outstanding in favour of the landlord of \$735.00.

I hereby issue an Order of Possession in favour of the landlord effective 1:00 p.m. on Friday, March 1, 2013. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

Conclusion

The landlord is successful and is awarded monetary compensation for the rent owed and an Order of Possession

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: February 28, 2013

Residential Tenancy Branch

