



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Wall Financial Corporation
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNDC, 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 served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on March 1, 2011.

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

This tenancy began on August 1, 2012. The rent is \$975.00 due in advance on the first day of each month. The tenant paid a security deposit of \$487.50 and a pet deposit of 200.00 on July 9, 2012. The tenant did not pay rent for April when it was due. On April 3, 2013 the landlord served the tenant with a Notice to End Tenancy for non-payment of rent by posting it to the door of the rental unit. The tenant paid the rent for April together with a late fee, but not within the five day period; it was paid near the end of April. The landlord accepted the April rent payment for use and occupancy only. The tenant has not paid rent for May and he 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 - I find that the landlord has established a total monetary claim of \$975.00 for the outstanding rent for May. The landlord is entitled to recover a \$20.00 late fee and the \$50.00 filing fee for this application for a total award of \$1,045.00. As requested by the landlord's agent, I order that the landlord retain the deposit and interest of \$687.50 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$357.50. 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: May 15, 2013

Residential Tenancy Branch

