



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Murray Hill Developments Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Both parties appeared and had an opportunity to be heard.

Issue(s) to be Decided

- Is the landlord entitled to an order of possession and, if so, upon what terms?
- Is the landlord entitled to a monetary order and, if so, in what amount?
- Is the landlord entitled to retain the security deposit?

Background and Evidence

This tenancy commenced October 5, 2012. There were a series of fixed term tenancies. When the tenancy started the month rent was \$675.00. The latest tenancy agreement, which was for the term of November 1, 2013 to April 30, 2014, increased the rent to \$700.00 a month, commencing November 1, 2013. The tenant paid a security deposit of \$337.50.

The parties both testified that the tenant was served with at least one 10 Day Notice to End Tenancy for Non-Payment of Rent. That document includes information advising the tenant that the notice is cancelled if the tenant paid the arrears of rent within five days. It also advises that the tenant has five days to dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. Both parties testified that the tenant had not made any payment towards rent since September nor had he filed an application for dispute resolution disputing any notice to end tenancy.

The parties agreed that the arrears of rent were as follows: \$475.00 for July; \$675 for each of August and October; and \$700 for each of November, December and January; a total of \$3925.00.

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 did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the *Residential Tenancy 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 effective two days after service on the Tenant.

I find that the landlord has established a total monetary claim of \$3975.00 comprised of in the amount of \$3925.00 and the \$50.00 fee paid by the landlord for this application. I order that the Landlord retain the deposit of \$337.50 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of \$3637.50.

Conclusion

- a. An order of possession effective two days after service on the Tenant has been granted. If necessary, this order may be filed in the Supreme Court and enforced as an order of that Court.
- b. A monetary order in favour of the landlord in the amount of \$3637.50 has been granted. If necessary, it may be filed in the Provincial Court (Small Claims) 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: January 20, 2014

Residential Tenancy Branch

