



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COBALT HOTEL
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.

The landlord's agent attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail sent on October 8, 2014, a Canada post tracking number was provided as evidence of service.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenant has been duly served in accordance with the Act.

The landlord's agent gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

Preliminary matter

At the outset of the hearing the landlord requested to amend their application to include loss of subsequent rent since their application was filed. As rent is the most basic term of a tenancy agreement, I find, pursuant to section 62(3) that the landlord's application is amended to include loss of subsequent rent.

Issues to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary order?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Is the landlord entitled to recover the cost of the filing fee?

Background and Evidence

Based on the testimony of the landlord's agent, I find that the tenant was served with a notice to end tenancy for non-payment of rent on September 8, 2014, by posting to the door of the rental unit and witnessed. 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.

The landlord's agent stated at the time the notice was issued the tenant failed to pay rent for August 2014, and September 2014. The landlord stated the tenant failed to pay subsequent rent for October 2014 and November 2014. The landlord seeks to recover unpaid rent in the amount of \$1,800.00. The landlord seeks to offset the amount owed by retaining the security deposit in the amount of \$225.00.

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 Act to have accepted that the tenancy ended on the effective date of the Notice.

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 find that the landlord has established a total monetary claim of \$1,850.00 comprised of unpaid rent as described above and the \$50.00 fee paid by the landlord for this application.

I order that the landlord retain the security deposit and interest of \$225.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$1,625.00**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

Conclusion

The tenant failed to pay rent and did not file to dispute the notice to end tenancy. The tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlord is granted an order of possession, and may keep the security deposit and interest in partial satisfaction of the claim. I grant a monetary order for the balance due.

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: November 18, 2014

Residential Tenancy Branch

