



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to obtain an Order of Possession for unpaid rent, a Monetary Order for unpaid rent and to recover the cost of the filing fee.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on June 18, 2009. Mail receipt numbers were provided in the landlord's documentary evidence. The tenant collected the mail on June 22, 2009 and is deemed to be served the hearing documents on this day as per section 90(a) of the *Act*.

The landlord appeared, gave affirmed testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form.

There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

- Are there arrears of rent and if so, how much?
- Whether the landlord is entitled to an Order of Possession?
- Whether the landlord is entitled to a Monetary Order to recover unpaid rent and the filing fee?

Background and Evidence

This application has been brought by the executrix of the estate for the deceased landlord.



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This tenancy started approximately eight years ago. This is now a month to month tenancy and rent is \$1,135.00 per month due on the 1st of each month.

The landlord issued a Two Month Notice on May 14, 2009 to take effect on July 31, 2009 for the landlords' use of the property. The landlord gave the tenant opportunity to dispute this Notice. There is no evidence that the tenant applied for Dispute Resolution. The landlord testifies that the tenant did not pay rent for June, 2009 and a 10 Day Notice was issued to the tenant. The landlord has sent in photographic evidence of this posted on the tenants door. The tenant is deemed to have been served three days after posting. The tenant had five days to either pay the outstanding rent or apply for Dispute Resolution or the tenancy would end on June 17, 2009. The tenant did not pay the outstanding rent or dispute the Notice within five days.

The landlord has applied for an Order of Possession to take effect as soon as possible.

Analysis

The tenant did not appear at the hearing, despite having been sent a Notice of the hearing; therefore, in the absence of any evidence from the tenant, I find that the landlord is entitled to recover rent arrears for June, 2009 of \$1,135.00.

As the landlord has been successful in this matter, she is also entitled to recover the \$50.00 filing fee for this proceeding pursuant to s. 72(1) of the *Act*.

The landlord will receive a monetary order for the balance owing as follows:

Outstanding rent for June, 2009	\$1,135.00
Total amount due to the landlord	\$1,185.00

I accept that the tenant was served the 10 Day Notice to End Tenancy for unpaid rent, pursuant to section 88 of the *Residential Tenancy Act*. The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the outstanding rent within five days nor apply to dispute the Notice to End Tenancy within five days.

Based on the foregoing, I find that the tenant is conclusively presumed, under section 46(5) of the *Act*, to have accepted that the tenancy ended on the effective date of the Notice and grant the landlord an order of possession.

Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$1,185.00**. The order must be served on the tenant and is enforceable through the Provincial Court 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 tenant and may be filed in the Supreme 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: July 17, 2009.

Dispute Resolution Officer