



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to obtain an Order of Possession, a Monetary Order for unpaid rent and to recover the cost of the filing fee. At the outset of the hearing the landlord withdrew his application to keep the security deposit.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*, and given to the tenant in person, with a witness present for the landlord, on December 18, 2009. I find that the tenant was properly served pursuant to s. 89 of the *Act* with notice of this hearing and the hearing proceeded in the tenants' absence.

The landlord appeared, gave affirmed testimony, was provided the opportunity to present his 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?
- Is the landlord entitled to an Order of Possession for unpaid rent?
- Whether the landlord is entitled to a Monetary Order to recover the filing fee?

Background and Evidence

This tenancy started on July 01, 2009. The rent for this unit is \$850.00 per month due on the 1st of each month. The tenant paid a security deposit of \$425.00 on July 01, 2009. This amount has been applied against outstanding rent owed for August 2009 with the tenants' permission.

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The landlord testifies that the tenant did not pay her rent for November and December, 2009, of \$1,700.00. The landlord issued a 10 Day Notice to End the Tenancy for unpaid rent on December 07, 2009. This was posted to the tenants' door and was deemed to have been served three days after posting. The tenant had five days to either pay the outstanding rent, apply for Dispute Resolution or the tenancy would end on December 17, 2009. The tenant did not pay the outstanding rent or dispute the Notice within five days. Since that time the tenant has not paid rent for January, 2010 to the amount of \$850.00. The total amount of unpaid rent is now \$2,550.00.

The landlord believes the tenant may be in the process of moving from the rental unit but wishes to continue with his application for an Order of Possession to take effect as soon as possible in the event the tenant does not vacate the unit.

Analysis

The tenant did not appear at the hearing, despite having been given 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 November and December, 2009 and January, 2010 of \$2,550.00 pursuant to s.67 of the *Act*.

As the landlord has been successful in this matter, he 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 November and December, 2009 and January, 2010	\$2,550.00
Total amount due to the landlord	\$2,600.00

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

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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. As the landlord posted the 10 Day Notice on the tenants' door the amended date of the Notice is December 20, 2009. As this date has since past I grant the landlord an order of possession to take effect two days after service of the Order upon the tenant.

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 **\$2,600.00**. The order must be served on the respondent 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 Respondent 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: January 26, 2010.

Dispute Resolution Officer