

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution for an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord's agent. The tenant did not attend.

Issues(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent and utilities; to a monetary Order for unpaid rent and utilities; and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to sections 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord provided the following documents into evidence:

- A copy of a tenancy agreement signed by the parties on September 24, 2009 for a 6 month fixed term tenancy for a monthly rent of \$840.00 per month with the first rent payment due on the 1st of October 2009, a security deposit of \$420.00 was paid;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated January 4, 2010 with an effective vacancy date of January 17, 2010 for unpaid rent in the amount of \$241.23, including \$205.00 of rent due on December 1, 2009; and
- A copy of the tenant's account ledger with closing balance at February 4, 2010.

The landlord testified the 10 Day Notice to End Tenancy was served on January 4, 2010 when it was posted to the tenant's rental unit door. The tenant did not pay any outstanding rent or utilities or apply for Dispute Resolution to dispute the notice within 5 days of receiving the notice. Section 90 of the Act states that a document served by attaching it to a door is deemed received on the 3rd day after it is attached.

The landlord testified that the current arrears are in the amount of \$79.17, because the tenant made another payment on February 18, 2009.

Analysis

Section 46 of the Act allows the landlord to end a tenancy if rent is unpaid on any day after the day it is due, by giving a notice to end the tenancy that is not earlier than 10 days after the date the notice is received by the tenant.

Section 46 (6) stipulates that if the tenancy agreement requires the tenant to pay utility charges to the landlord and the utility charges are unpaid for more than 30 days after the tenant is given a written demand for payment the landlord may treat the unpaid rent.

Despite, the amount of \$241.23 being listed as unpaid rent on the 10 day Notice to End Tenancy when the rent due was \$205.00 and the balance was for unpaid utilities, I find that as the tenant failed to dispute the notice she is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice.

Conclusion

I find that the landlord is entitled to an Order of Possession 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.

I find that the landlord is entitled to monetary compensation pursuant to Section 67 and therefore grant a monetary order in the amount of **\$129.17** comprised of \$79.17 rent/utilities owed and the \$50.00 fee paid by the landlord for this application.

This order must be served on the tenant and 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: March 01, 2010.

Dispute Resolution Officer