

DECISION

Dispute Codes - OPR, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession and a monetary order due to unpaid rent.

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

The landlord provided confirmation that the notice of the hearing was served and received by the tenant via registered mail.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for unpaid rent; and to recover the filing fee from the tenants 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 tenancy began on April 1, 2009 as a month to month tenancy for the monthly rent of \$370.00 due on the 1st of the month. The tenant paid rent for April 15, 2009 for the month of April and then on August 28, 2009 the tenant paid rent for the months of May, June, July, and August, 2009. The tenant has failed to pay any rent since that time.

The landlord submitted the following evidentiary material:

- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on January 16, 2010 with an effective vacancy date of January 31, 2010 due to \$1,850.00 unpaid rent.

Documentary and testimonial evidence from the landlord indicates that the tenant failed to pay the full rent owed for the months of September, October, November, December 2009; January, February, and March 2010 and that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent when it was served via registered mail on January 16, 2010.

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 apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all documentary evidence and accept that the tenant had been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenant on January 21, 2010 and the effective date of the notice is January 31, 2010, pursuant to Section 53 of the *Act*. I accept the evidence before me that the tenant failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act*.

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.

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 grant a monetary order in the amount of **\$2,640.00** comprised of \$2490.00 rent 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 17, 2010.

Dispute Resolution Officer