

DECISION

Dispute Codes OPR

Introduction

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

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

This matter was originally reviewed as a Direct Request but the original Dispute Resolution Officer could not determine at the time if the landlord had reinstated the tenancy due to the time lapsed from application to processing and so had this hearing was reconvened to address this issue.

The landlord testified that she served the tenant with the notice of this hearing by posting it to the door of the rental unit on May 12, 2010. I am satisfied the landlord served notice of this hearing in compliance with Section 89 of the *Residential Tenancy Act (Act)*.

Issues(s) to be Decided

The issue to be decided is whether the landlord is entitled to an order of possession for unpaid rent, pursuant to sections 46, 55, and 67 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord testified that the tenant has not paid rent for January 2010 as required by the notice but that the landlord has accepted rent for use and occupancy for the month of February 2010.

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on March 24, 2009 for a month to month tenancy beginning on March 24, 2009 for the monthly rent of \$1,400.00 due on the 1st of the month and a security deposit of \$700.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on January 12, 2010 with an effective vacancy date of January 22, 2010 due to \$1,400.00 unpaid rent.

Documentary and testimonial evidence filed by the landlord indicates that the tenant failed to pay the full rent owed for the month of January 2010 and that the tenant was

served a 10 Day Notice to End Tenancy for Unpaid Rent by posting it on the rental unit door on January 12, 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 has 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 15, 2010 and the effective date of the notice is amended to January 15, 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*. I also accept that the landlord has not reinstated the tenancy.

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.

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: May 21, 2010.

Dispute Resolution Officer