



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPC, FF

Introduction

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

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

The landlord testified the notice of hearing documents were served on the tenant via registered mail sent on October 22, 2010. Section 90 of the *Residential Tenancy Act* (Act) deems documents served via mail are deemed received on the 5th day after mailing.

I find the tenant was sufficiently served with notice of this hearing in accordance with the Act.

Issues(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for cause and to a monetary order to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 47, 55, 67, and 72 of the Act.

Background and Evidence

The tenancy began on November 1, 2004 as a month to month tenancy for a current monthly rent of \$438.00 due on the 1st of the month. A security deposit was not paid.

The landlord submitted into evidence a copy of a 1 Month Notice to End Tenancy for Cause dated September 24, 2010 with an effective date of October 31, 2010 citing the tenant breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord testified the 1 Month Notice to End Tenancy was served on the tenant via registered mail on September 24, 2010.

The Notice states that the tenant had ten days to apply for Dispute Resolution or the tenancy would end. The tenant did not apply to dispute the Notice to End Tenancy within ten 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 September 29, 2010 and the effective date of the notice is October 31, 2010.

Based on the foregoing, I find that the tenant is conclusively presumed under section 47(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 **\$50.00** comprised of the 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: November 16, 2010.

Dispute Resolution Officer