



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes – OPR, MNR

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 landlord submitted a signed Proof of Service of the Notice of Dispute Resolution Hearing which declares that on December 16, 2010 at 9:59 a.m. the landlord served the tenant with the Notice of Hearing documents personally.

Based on the written submissions of the landlord, I find that the tenant has been served sufficiently with notice of this hearing.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent and to a monetary order for unpaid rent, pursuant to Sections 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on August 9, 2010 for a month to month tenancy beginning on August 1, 2010 for the monthly rent of \$390.50 (including cablevision) due on the 1st of each month and a security deposit of \$150.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on December 1, 2010 with an effective vacancy date of December 13, 2010 due to \$1,879.50 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenant failed to pay the full rent owed for the months of October, November and December 2010 and January 2011 and that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent when personally on December 3, 2010 at 2:23 p.m.

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.



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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 December 3, 2010 and the effective date of the notice is December 13, 2010. 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.

Despite the landlord's claim for a total monetary award of \$2,506.00 for unpaid rent the tenancy agreement indicates the tenant pays \$236.00 per month for supportive housing fees that include meals; access to Lifeline; and cleaning services and is not included in the rent amount, as such I find those payments are not a part of rent and cannot be awarded through this process.

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 I grant a monetary order in the amount of **\$1,562.00** comprised of rent owed.

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: January 07, 2011.

Residential Tenancy Branch