



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, OPC, OPB, MNR, FF

Introduction

This was the hearing of an application by the landlord for an order of possession and a monetary order. The hearing was conducted by conference call. The landlord participated in the hearing. the tenant did not attend although he was served with the application for dispute resolution and Notice of Hearing by posting to the door of the rental

Issue(s) to be Decided

Is the landlord entitled to an order for possession and to a monetary order?

Background and Evidence

The tenancy began a number of years ago, but the parties entered into a new tenancy agreement commencing March 2, 2010. The agreement provided for a monthly rental payment of \$450.00 due on the 28th day of each month.

The landlord served the tenant with Notice to End Tenancy for non-payment of rent on November 29, 2010. The Notice was served by registered mail sent to the tenant on November 29, 2010. The tenant has not paid the outstanding rent and has not applied to dispute the Notice to End Tenancy.

Analysis and Conclusion

Section 46(5) of the *Residential Tenancy Act* provides that if a tenant who has received a Notice to End Tenancy for unpaid rent does not pay the outstanding rent or apply to dispute the Notice within five days after receiving it the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. Based on the above facts I find that the landlord is entitled to an order for possession effective two days after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that court.

The landlord testified that the tenant has not paid rent for October, November, December and now January, 2011. Section 89 of the *Residential Tenancy Act* provides that an application for dispute resolution seeking an order for possession may be served on a tenant by posting to the door of the rental unit, but other applications including an application for a monetary order must be served by handing the application to the tenant or by sending it to the tenant by registered mail. Because this application was served on the tenant by posting to the door of the rental unit and not by the means required by section 89 of the *Act* I am unable to grant the landlord a monetary order on this application. The landlord's application for a monetary order is therefore dismissed with leave to reapply.

Dated: January 07, 2011.
