



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR MNSD FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain an Order of Possession for unpaid rent, a Monetary Order for unpaid rent or utilities, to keep all or part of the security deposit, and to recover the cost of the filing fee from the Tenant for this application.

Service of the hearing documents, by the Landlord and Agent to the Tenant was done by posting them to the Tenant's door on June 22, 2011.

The Landlord and Agent appeared at the teleconference hearing, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form. No one appeared on behalf of the Tenant.

Issues(s) to be Decided

Is the Landlord entitled to an Order of Possession for unpaid rent under section 55 of the *Residential Tenancy Act*?

Is the Landlord entitled to a Monetary Order pursuant to section 67 of the Act?

Background and Evidence

The parties entered into a written month to month tenancy agreement that began November 1, 2009. Rent was payable on the first of each month in the amount of \$652.50 which included parking. The Tenant paid \$322.50 on October 28, 2009 as the security deposit.

The Landlord testified that when the Tenant failed to pay June 1, 2011 rent on time a 10 Day Notice to End Tenancy was issued and posted to the Tenant's door on June 6, 2011. The Landlord suspects the Tenant has abandoned the unit prior to today's hearing and he did not provide the Landlord with a forwarding address.

Analysis

All of the testimony and documentary evidence was carefully considered.

Section 89 of the Act sets out special rules for the service of certain documents as follows:

Section 89(1) of the Act provides how an application for dispute resolution must be given to the respondent; and posting the hearing documents to the Tenant's door is not an option for service when the Landlord's application is for monetary compensation.

Section 89(2) pertains to the service of hearing documents that relate specifically to an application for an Order of Possession under sections 55, 56, or 56.1 and does provided for service by posting the documents to the Tenant's door.

The evidence provides the Landlord served the hearing documents to the Tenant by posting them to his door; therefore I find service for the Landlord's application for a Monetary Order not to be effected in accordance with the Act and I therefore dismiss his request for monetary compensation with leave to reapply.

Order of Possession I find that the Landlord has met the requirements for the 10 day notice to end tenancy pursuant to section 46(1) of the *Act*, that the Tenant failed to pay the rent or apply to dispute the Notice within 5 days after receiving this Notice, and that the Tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must vacate the rental unit to which the notice relates pursuant to section 46(5) of the *Act*. Therefore I approve the Landlord's request for an Order of Possession.

The Landlord has partially succeeded with his application; therefore I award recovery of the filing fee in the amount of **\$25.00**.

Conclusion

I HEREBY 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 Respondent Tenant and may be filed in the Supreme Court and enforced as an order of that Court.

A copy of the Landlord's decision will be accompanied by a Monetary Order for **\$25.00**. The order must be served on the Respondent Tenant and is enforceable through the Provincial Court 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: July 14, 2011.

Residential Tenancy Branch