



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

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

The landlord submitted receipts confirming that on August 4, 2011 the landlord served the tenant with the notice of this hearing via registered mail. Section 90 of the *Act* states a document sent by mail is deemed served on the 5th day after it is mailed.

Based on the written submissions and testimony of the landlord, I find that the tenant has been sufficiently served with the Dispute Resolution Direct Request Proceeding documents pursuant to the *Residential Tenancy Act (Act)*.

At the outset of the hearing I confirmed with the landlord's agent that she had applied for an order of possession based on a 10 Day Notice to End Tenancy for Unpaid Rent. Because there were three notices issued during the tenancy I confirmed with the agent that the Application for Dispute Resolution pertained to the final notice issued on June 3, 2011.

Despite the submission of a copy of a 1 Month Notice to End Tenancy for Cause issued on July 1, 2011 for repeated late payment of rent and in the absence of the tenant at this hearing, I will not amend the landlord's application to include a request for an order of possession based on this 1 Month Notice.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for unpaid rent; and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 46, 55, 67, and 72 of the *Act*.

Background and Evidence

The landlord submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties on October 31, 2010 for a month to month tenancy beginning on November 1, 2010 for the monthly rent of \$1,000.00 due on the 1st of each month and a security deposit of \$500.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on April 14, 2011 with an effective vacancy date of April 14, 2011 due to \$1,000.00 in unpaid rent;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on May 5, 2011 with an effective vacancy date of May 15, 2011 due to \$1,080.00 in unpaid rent and \$390.00 in unpaid utilities;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on June 3, 2011 with an effective vacancy date of June 13, 2011 due to \$1,000.00 in unpaid rent and \$390.00 in unpaid utilities.

Documentary evidence filed by the landlord indicates the tenant failed to pay the full rent owed for the months of June, July and August 2011 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the rental unit door on June 3, 2011.

The Notice states the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The landlord testified the tenant did pay the rent in full for the month of June on June 6, 2011, but the tenant has not paid any rent since then, including the rent due on September 1, 2011 (today's date).

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 June 6, 2011 and the effective date of the notice is amended to June 16, 2011, pursuant to Section 53 of the *Act*. I accept the evidence before me that the tenant paid the rent owed in full within the 5 days granted under Section 46(4) of the *Act*.

Based on the foregoing, I find the 10 Day Notice to End Tenancy for Unpaid Rent issued by the landlord on June 3, 2011 is of no force or effect, and I dismiss the portion of the landlord's Application seeking an order of possession.

However, I accept the landlord's undisputed testimony that the tenant has failed to pay rent for July and August 2011. As rent for September is due today the landlord's request to include this amount is premature, the landlord remains at liberty to file a separate Application for Dispute Resolution.

Despite the landlord's inclusion of amounts the tenant owes for utilities the landlord has provided no evidence of the amounts owed and I dismiss this portion of the landlord's claim.

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$2,050.00** comprised of \$2,000.00 rent owed and the \$50.00 fee paid by the landlord for this application.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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: September 01, 2011.

Residential Tenancy Branch