



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW DECISION

Dispute Codes:

OPR, MNR

Introduction

This Application for Dispute Resolution was the subject of a Direct Request Proceeding on August 15, 2011, at which time a Dispute Resolution Officer granted the Landlord an Order of Possession and a monetary Order in the amount of \$2,000.00.

The Tenant filed an Application to Review the decision of August 15, 2011. On September 15, 2011 a Dispute Resolution Officer, suspended the initial decision and Orders of August 15, 2011 and directed that a review hearing be held to determine the merit of the Landlord's Application for Dispute Resolution.

This Review Hearing was convened to consider the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent and a monetary Order for unpaid rent.

The Tenants did not attend the review hearing.

The Landlord attended the review hearing. She stated that she received the Notice of Review Hearing in the mail but she did not receive a copy of the receipt for rent from June and July which the Tenants allege was provided to them by the Landlord's estranged spouse.

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 55 and 67 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The Landlord submitted documentary evidence that shows the parties entered into a written tenancy agreement; that the tenancy began on October 01, 2010; and that the agreement required the Tenant to pay monthly rent of \$1,000.00 on the first day of each month.

At the Review Hearing the Landlord stated that her estranged husband was not named on the tenancy agreement and that the Tenants were specifically advised not to make payments to her estranged husband.

The Landlord stated that the Tenant did not make any payments to her estranged husband prior to June 01, 2011. She stated that she spoke with the Tenant shortly after their rent was due on June 01, 2011, at which time she was told that the rent for June had been paid to her estranged husband. She stated that she repeated her direction not to pay any money to her estranged husband and they promised they would not pay further money to him

The Landlord stated that she spoke with the Tenant shortly after their rent was due on July 01, 2011, at which time she was told that the rent for July had been paid to her estranged husband.

The Landlord stated that she has not discussed the matter with her estranged husband and he has never told her that the rent was paid to him. She stated that she was never served with a copy of the alleged receipt from her estranged husband so she is unable to speak to the veracity of that receipt.

The Landlord submitted documentary evidence that shows that the Landlord mailed a Ten Day Notice to End Tenancy for Unpaid Rent to the Tenant on, or about, July 14, 2011. The Notice declared that the Tenant has not paid rent of \$2,000.00 that was due on June/July 01, 2011 and that they must vacate the rental unit by July 29, 2011.

Analysis

On the basis of the testimony of the Landlord and in the absence of testimony from either Tenant, I find that the Tenant has not paid rent for June or July of 2011 to the Landlord and that they therefore owe rent of \$2000.00.

In determining this matter, I placed no weight on the receipt from the Landlord's estranged spouse that the Tenant submitted with the Application to Review. On the basis of the testimony of the Landlord and in the absence of testimony from either Tenant, I find that this receipt was not served on the Landlord and that it cannot, therefore, be considered as evidence at this hearing.

On the basis of the testimony of the Landlord and in the absence of testimony from either Tenant, I find that the Tenant was advised at the start of this tenancy that they were not to pay rent to the Landlord's estranged husband and that they did not pay rent to the Landlord at any time prior to the alleged payments that were made for June or July of 2011. I therefore find that the rent for June and July was not paid to the Landlord, regardless of whether rent was paid to her estranged husband.

Section 46 of the *Act* authorizes a landlord to end a tenancy if rent is not paid when rent is due. As the Tenant has failed to show that rent was paid for June or July of 2011, I

find that the Landlord was entitled to end this tenancy in accordance with section 46 of the *Act*.

On the basis of the evidence presented by the Landlord and in the absence of evidence to the contrary, I find that the Landlord mailed a Ten Day Notice to End Tenancy for Unpaid Rent to the Tenant on, or about, July 14, 2011. I therefore find that the Landlord is entitled to an Order of Possession pursuant to section 46 of the *Act*.

Conclusion

As the Landlord has established that she is entitled to an Order of Possession and a monetary Order in the amount of \$2,000.00, I find that the original decision, monetary Order, and Order of Possession, dated August 15, 2011, all remain in full force and effect.

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: October 17, 2011.

Residential Tenancy Branch