



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession.

I reviewed the documentary evidence submitted by both parties prior to the hearing.

Both parties appeared, and were provided the opportunity to present their evidence orally and make submissions to me.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Background and Evidence

Based on the testimony of the landlord, I find that the tenant was served with a notice to end tenancy for non-payment of rent on October 2, 2011, by personal service. The notice informed the tenant that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenant had five days to dispute the notice.

The tenant stated that rent was paid and has submitted a cheque history query document from the Ministry of Social Services. She stated that this document shows she has paid part of her rent in the amount of \$362.50 and that it was sent and cashed by the landlord in October 2011.

The landlord stated that he did not receive any cheque from the Ministry of Social Service in October 2011, which would have covered part of October rent. He also stated that it was unusual not to receive a cheque on behalf of the tenant.

The landlord stated that he has not received any rent for October 2011, and November 2011.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The cheque history query document does show that amount of \$362.50 was sent and cashed. However, the tenants name is not on this document, it has the name of a third party person and it appears to relate to an address other than where the tenant resides. I find there was no evidence that the Ministry of Social Services sent a cheque on the tenant's behalf.

I find that the tenant has not paid the outstanding rent and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the landlord is entitled to an order of 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.

Conclusion

The tenant failed to pay all the rent and did not file to dispute the notice to end tenancy. The tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlord is granted an order of possession.

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: November 10, 2011.

Residential Tenancy Branch