



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 was convened by way of conference call in repose to the landlords' application for an Order of Possession for unpaid rent and utilities; for a Monetary Order for unpaid rent and utilities; and to recover the filing fee from the tenant for the cost of this application.

Service of the hearing documents, by the landlords to the tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on November 15, 2011. Mail receipt numbers were provided by the landlord in evidence. The tenant is deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

- Are the landlords entitled to an Order of Possession due to unpaid rent and utilities?
- Are the landlords entitled to a Monetary Order to recover unpaid rent and utilities?

Background and Evidence

The landlord testifies that this month to month tenancy started on June 01, 2009. Rent for this unit increased to \$600.00 per month on October 01, 2011 and rent is due on the first of

each month. The tenant pays 40 percent of the utilities. The landlord has provided a copy of the tenancy agreement and a rent increase notice.

The landlord testifies that the tenant owes a balance of rent for November of \$25.00. The tenant also owes a balance for her share of the utilities of \$44.90. The tenant receives copies of the utility bills each month from the landlords. The landlords issued a 10 Day Notice to End Tenancy for unpaid rent and utilities on November 02, 2011. This was posted to the tenant's door and was deemed to have been served three days after posting. The tenants had five days to either pay the outstanding rent, apply for Dispute Resolution or the tenancy would end on November 12, 2011. The tenant did not pay the outstanding rent and utilities or dispute the Notice within five days.

The landlords seek a Monetary Order to recover the outstanding rent and utilities and state as the tenant has been often late with her rent and utilities over the last six months the landlords request the 10 Day Notice is upheld and seek an Order of Possession as soon as possible. The landlords also seek to recover their filing fee paid for this proceeding.

Analysis

The tenant did not appear at the hearing, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the tenant, I find that the landlords are entitled to recover rent and utility arrears for November, 2011 to the sum of **\$69.90** pursuant to s.67 of the *Act*.

As the landlords have been successful in this matter, they are also entitled to recover the **\$50.00** filing fee for this proceeding pursuant to s. 72(1) of the *Act*.

The landlords will receive a monetary order for the balance owing of **\$119.90**.

I accept that the tenant was served the 10 Day Notice to End Tenancy for unpaid rent, pursuant to section 88 of the *Residential Tenancy Act*. The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. As

this Notice was posted on the tenants' door it was deemed served three days after posting and therefore the amended date of the Notice would be November 15, 2011 pursuant to s. 53 of the *Act*. The tenant did not pay the outstanding rent within five days nor apply to dispute the Notice to End Tenancy within five days.

Based on the foregoing, I find that the tenant is conclusively presumed, under section 46(5) of the *Act*, to have accepted that the tenancy ended on the effective date of the Notice and grant the landlord an order of possession.

Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$119.90**. The order must be served on the respondent and is enforceable through the Provincial Court as an order of that Court.

I HEREBY ISSUE an Order of Possession in favour of the landlords effective **two days** after service on the tenant. This order must be served on the Respondent and may be filed in the Supreme Court and 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: November 30, 2011.

Residential Tenancy Branch