



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This hearing dealt with the landlord's application for an Order of Possession and a Monetary Order for unpaid rent. The tenant did not appear at the hearing. The landlord testified that he personally served the hearing documents upon the tenant at the rental unit on January 20, 2012. In the absence of evidence to the contrary, I accepted that the tenant has been notified of this hearing and I proceeded to hear from the landlord without the tenant present.

Issue(s) to be Decided

1. Is the landlord entitled to an Order of Possession for unpaid rent?
2. Is the landlord entitled to a Monetary Order for unpaid rent?

Background and Evidence

The landlord provided the following evidence verbally during the hearing: The tenancy commenced July 16, 2011 and the tenant is required to pay rent of \$1,650.00 on the 1st day of every month. The tenant made only a partial payment for January 2012 rent and on January 6, 2012 the landlord posted a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) on the tenant's door. The landlord testified the tenant did not pay the outstanding rent and continues to occupy the rental unit.

As evidence the landlord provided a copy of the 10 Day Notice. The Notice indicates rent of \$550.00 was outstanding as of January 1, 2012 and has a stated effective date of January 16, 2012.

Analysis

When a tenant receives a 10 Day Notice the tenant has five days to pay the outstanding rent to nullify the Notice or the tenant has five days to dispute the Notice by filing an Application for Dispute Resolution. If a tenant does not pay the outstanding rent or dispute the Notice within five days then, pursuant to section 46(5) of the Act, the tenant

is conclusively presumed to have accepted the tenancy will end and must vacate the rental unit by the effective date of the Notice.

As the Notice was posted on the door it is deemed to be received three days later pursuant to section 90 of the Act. Accordingly, the effective date is automatically changed to read January 19, 2012 under section 53 of the Act.

Since the tenant did not pay the outstanding rent or dispute the Notice I find the tenancy ended on January 19, 2012 and the landlord is entitled to regain possession of the rental unit. Provided with this decision is an Order of Possession effective two (2) days after service upon the tenant.

I find the landlord entitled to recover unpaid rent of \$550.00 for the month of January 2012. I also award the landlord the \$50.00 filing fee paid for this application. The landlord did not request retention of the security deposit and it remains in trust, to be administered in accordance with the Act.

In light of the above, the landlord is provided a Monetary Order in the total amount of \$600.00 to serve upon the tenant and the landlord may enforce it in Provincial Court (Small Claims) as an Order of the court.

Conclusion

The landlord is provided an Order of Possession effective two (2) days after service upon the tenant. The landlord is provided a Monetary Order in the amount of \$600.00 to serve upon the tenant.

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: February 02, 2012.

Residential Tenancy Branch