



Dispute Resolution Services

Page: 1

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 based on unpaid rent, a monetary order for unpaid rent and to recover the filing fee for the Application.

The Landlord and a translator to assist the Landlord appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Landlord testified he served the Tenant with the Notice of Hearing and the Application by registered mail, sent on January 17, 2012. Under the Act these documents are deemed served five days after mailing. Despite this the Tenant did not appear. I find the Tenant has been duly served in accordance with the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlord to an Order of Possession and monetary relief?

Background and Evidence

Based on the testimony of the Landlord and the translator, I find that the Tenant was served with a Notice to End Tenancy for non-payment of rent on January 6, 2012, by personal delivery. The translator assisting the Landlord testified he witnessed this service on January 6, 2012.

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 Landlord testified that the Tenant had failed to pay \$500.00 in rent for December, \$700.00 for January 2012, and \$700.00 for February 2012. The Landlord also testified that the Tenant has failed to pay utilities.

Analysis

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

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.

I find that the Tenant has not paid rent for February 2012, and the Landlord will suffer a loss of rent for the month. Therefore, under section 64 of the Act I allow the Landlord's claim to be amended to include one additional month of rent.

I dismiss the claim of the Landlord for utilities owed, with leave to re-apply. There is insufficient evidence to determine what amount of utilities are owed and what amount the Tenant agreed to pay. The Landlord will have to provide evidence, such as a Tenancy Agreement, setting out the amounts the Tenant was to pay for utilities.

I find that the Landlord has established a total monetary claim of **\$1,950.00** comprised of \$500.00 for December 2011, and \$1,400.00 for January and February 2012 rents, and the \$50.00 fee paid by the Landlord for this application. I grant the Landlord an order under section 67 for the balance due.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The Tenant failed to pay 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 and is granted a monetary order for the balance of rent due.

This decision is final and binding on the parties, except as otherwise provided for under the Act, and 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