



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

Introduction

This hearing was convened by way of conference call in repose to the landlord's application for an Order of Possession for unpaid rent.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*, and was posted on the tenant's door on February 16, 2012. The tenant was deemed to be served the hearing documents on the third day after they were mailed as per section 90(a) of the *Act*.

The landlords agent 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.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

The landlord's agent testifies that this tenancy started approximately a year ago. The tenant was the former owner of the property and when the property was foreclosed on the Receiver for the credit union allowed the tenant to occupy the unit under a verbal tenancy agreement. Rent for this unit is \$600.00 per month and is due on the 1st day of each month.

The landlord testifies that although he has not seen the tenant, the tenant's belongings remain in the unit and a car is parked in the driveway of the rental unit. The landlord's agent testifies that the tenant failed to pay rent for January, 2012 and the landlord served the tenant with a 10 Day Notice to End Tenancy. This Notice has an effective date of February 12, 2012 and was posted in the tenant's mail box on January 30, 2012. The landlord's agent testifies that the tenant has paid no rent since the 10 Day Notice was served upon him and has also failed to pay rent for February and March, 2012.

The landlord seeks an Order of Possession effective as soon as possible.

Analysis

Section 26 of the Act states: *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

Consequently I find that the tenant has failed to pay rent for January, February and March, 2012.

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.

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 pursuant to s. 55 of the *Act*.

Conclusion

I HEREBY ISSUE an Order of Possession in favour of the landlord 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: March 06, 2012.

Residential Tenancy Branch