



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPC, MNSD, MNR, CNC, ERP, RP, RR, FF

This hearing dealt with cross Applications for Dispute Resolution.

The Tenant is seeking cancellation of a 1 Month Notice to End Tenancy for Cause, for an order allowing a reduction in rent, for an order requiring the landlord to make emergency repairs and other repairs, and to recover the filing fee.

The Landlord is seeking an order of possession based on unpaid rent and on cause, and is requesting a monetary order for unpaid rents, to keep the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

An Agent for the Landlord appeared, gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Agent testified and provided documentary evidence that he served the Tenant with the Application and Notice of this Hearing by registered mail, sent on March 20, 2012. Under the Act, mail is deemed served five days after mailing.

Furthermore, the parties had been involved in one earlier hearing which was adjourned to today's date, in order that both Applications could be heard together. The Tenant was sent a Notice of Hearing for his own Application for the same time and date as the Landlord's Application. Despite this, the Tenant did not appear at this hearing. I find the Tenant has been duly served in accordance with the Act.

As the Tenant failed to appear for his own Application, I dismiss his Application without leave to reapply. Therefore, I will only deal with the Notice to End Tenancy for unpaid rent in this Decision.

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 Agent for the Landlord and the documentary evidence supplied, I find that the Tenant was served with a 10 day Notice to End Tenancy for non-payment of rent on March 6, 2012, by posting on the door. Under the Act, the Tenant was deemed served March 9, 2012.

The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days of service. The Notice also explains the Tenant had five days to dispute the Notice from the date of service.

The Agent testified that Tenant did not pay the rent as set out in the 10 day Notice, and did not pay rent for April of 2012, although he is still in the rental unit. The Landlord submitted in evidence a copy of a note received from the Tenant which states, "Of course I didn't pay rent, you gave me an eviction notice."

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 10 day Notice for unpaid rent. Therefore 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. 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 Landlord has established a total monetary claim of **\$1,992.00** comprised of rent for March and April of 2012, as well as the \$50.00 fee paid by the Landlord for this application. I order that the Landlord retain the deposit and interest of \$475.00 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$1,517.00**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

This decision is final and binding on the parties, except as provided 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: April 03, 2012.

Residential Tenancy Branch