



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, FF

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; for a Monetary Order for unpaid rent; and to recover the filing fee from the tenant for the cost of this application. At the outset of the hearing the landlord's agent withdrew the landlords claim for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement.

Service of the hearing documents, by the landlord's agent to the tenant, was done in accordance with section 89 of the *Act*. The landlord's agent gives sworn testimony that the tenant was served in person with the landlord's application and Notice of Hearing on April 18, 2012.

Issues(s) to be Decided

- Is the landlord entitled to an Order of Possession due to unpaid rent?
- Is the landlord entitled to a Monetary Order to recover unpaid rent?

Background and Evidence

This month to month tenancy started on May 15, 2011. Rent for this unit is \$420.00 per month and is due on the 15th of each month. The landlord's agent testifies that this was a verbal agreement between the parties.

The landlord's agent testifies that the tenant owed a balance of rent from February 15, to March 15, 2012 of \$105.00 and the tenant failed to pay rent from March 15 to April 15, 2012 of \$420.00. The landlord issued a 10 Day Notice to End Tenancy for unpaid rent on April 09, 2012 by serving the tenant in person. The tenant had five days to either pay the outstanding rent or apply for Dispute Resolution or the tenancy would end on April 19, 2012. The tenant did not pay the outstanding rent or dispute the Notice within five days. The tenant also failed to pay rent from April 15 to May 15, 2012. The total amount of outstanding rent is now \$945.00.

The landlord seeks a Monetary Order to recover the outstanding rent and filing fee paid for this proceeding and seeks an Order of Possession to take effect as soon as possible.

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 landlord is entitled to recover rent arrears for March, April and May, 2012 to the sum of **\$945.00** and a Monetary Order has been issued pursuant to s.67 of the *Act*.

As the landlord has been successful in this matter, the landlord is 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 total sum of **\$995.00**.

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.

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 **\$995.00**. 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 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: May 08, 2012.

Residential Tenancy Branch