



Dispute Resolution Services

Page: 1

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 and utilities.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on April 27, 2012. Mail receipt numbers were provided in the landlord's documentary evidence. The tenant was deemed to be served the hearing documents on the fifth 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 for unpaid rent?

Background and Evidence

The landlord testifies that this tenancy started on June 01, 2011. This is a subsidized rental unit. The tenant was given information to apply for her subsidized rent and the tenant failed to provide any information. The landlord scheduled a meeting with the tenant concerning her subsidy but the tenant failed to attend the meeting held on March 05, 2012. The tenant was sent a letter on March 26 stating the tenants rent would increase to \$1,029.00 on April 01, 2012 because the tenant had failed to provide the information required to obtain her subsidized rent.

The landlord testifies many attempts were made to support the tenant to apply for her rent subsidy.

The landlord's agent testifies that the Ministry paid \$700.00 towards the tenants rent for April, 2012; this left an outstanding balance of \$329.00. A 10 Day Notice was served to the tenant on April 10, 2012 by registered mail. This Notice informed the tenant that the tenant had five days to pay the outstanding rent or apply to dispute the Notice or the tenancy would end on April 25, 2012.

The landlord's agent testifies that the tenant has failed to pay any rent since the 10 Day Notice was issued. The landlord seeks an Order of Possession effective for May 23, 2012.

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.*

I find the tenant failed to comply with the landlords request to provide information relevant to obtain the tenants rent subsidy for 2012. Therefore, the landlord is entitled to

increase the rent back to market value and as the tenant failed to pay this rent the landlord served the tenant with a 10 Day Notice to End Tenancy.

The landlord served the tenant with the 10 Day Notice by registered mail therefore the notice is deemed to have been received by the tenant on April 15, 2012, five days after the Notice was posted. There is no evidence to show that the tenant has filed an application to dispute the Notice. Consequently, the tenant is conclusively presumed to have accepted the 10 Day Notice pursuant to s. 46(5) of the *Act* and the tenancy will end on the effective date given on the Notice.

Therefore, I uphold the landlord's application for an Order of Possession pursuant s. 55 of the *Act*.

Conclusion

I HEREBY ISSUE an Order of Possession in favour of the landlord effective on May 23, 2012. 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 18, 2012.

Residential Tenancy Branch