



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with a landlord's application for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent. The tenant did not appear at the hearing. The landlord testified that the hearing documents were sent to the tenant at the rental unit via registered mail on June 29, 2012. The landlord confirmed the tenant continues to occupy the rental unit. The landlord verbally provided a registered mail tracking number as proof of service and testified that the mail was not returned. I was satisfied the tenant has been sufficiently served with notice of this hearing and I proceeded to hear from the landlord without the tenant present.

Issue(s) to be Decided

1. Is the landlord entitled to an Order of Possession for unpaid rent?
2. Is the landlord entitled to a Monetary Order for unpaid rent and/or loss of rent?

Background and Evidence

The month-to-month tenancy commenced May 1, 2012. The tenant did not pay a security deposit. The tenant was required to pay rent of \$700.00 on the 1st day of every month. The landlord sent the tenant a tenancy agreement she signed but he did not sign and return a copy to her. The tenant has not paid any rent since the tenancy commenced despite several excuses for not paying and promises that he would pay. On June 16, 2012 a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) was posted on the door of the rental unit. The Notice indicates \$1,750.00 was outstanding for rent and the security deposit. The Notice has a stated effective date of June 26, 2012. The tenant did not dispute the Notice or pay the outstanding rent.

In filing this application the landlord requested recovery of three months of rent for the months of May 2012 through July 2012.

As evidence for this proceeding the landlord provided a photograph of the Notice posted on the door; a copy of the tenancy agreement signed by the landlord; and, print-outs of various electronic exchanges between the parties.

Analysis

When a tenant receives a 10 Day Notice the tenant has five days to pay the outstanding rent to nullify the Notice or the tenant has five days to dispute the Notice by filing an Application for Dispute Resolution. If a tenant does not pay the outstanding rent or dispute the Notice within five days then, pursuant to section 46(5) of the Act, the tenant is conclusively presumed to have accepted the tenancy will end and must vacate the rental unit by the effective date of the Notice.

Taking into consideration the undisputed evidence that the Notice was posted on the door the Notice is deemed to be received by the tenant three days later under section 90 of the Act. Accordingly, the effective date of the Notice is automatically changed to read June 29, 2012 pursuant to section 53 of the Act.

Since the tenant did not pay the outstanding rent or dispute the Notice within five days of receiving the Notice I find the tenancy ended on June 29, 2012 and the landlord is entitled to regain possession of the rental unit. Provided with this decision is an Order of Possession effective two (2) days after service upon the tenant.

Based upon the undisputed evidence before me, I find the landlord entitled to recover unpaid rent for the months of May and June 2012 in the amount of \$1,400.00. I further award the landlord loss of rent for the month of July 2012 in the amount of \$700.00 since the tenant continues to occupy the rental unit. I also award the landlord the filing fee paid for this application.

In light of the above, the landlord is provided a Monetary Order calculated as follows:

May 2012 unpaid rent	\$ 700.00
June 2012 unpaid rent	700.00
July 2012 unpaid rent	700.00
Filing fee	<u>50.00</u>
Monetary Order	\$ 2,150.00

The landlord must serve the Monetary Order upon the tenant and may enforce it in Provincial Court (Small Claims) as necessary.

Conclusion

The landlord has been provided an Order of Possession effective two (2) days after service upon the tenant. The landlord has been provided a Monetary Order in the amount of \$2,150.00 to serve upon the tenant and enforce as necessary.

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: July 17, 2012.

Residential Tenancy Branch