



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords for an order of possession, and a monetary order for unpaid rent.

Although served with the Application for Dispute Resolution and Notice of Hearing by posting to the door of the rental unit on August 24, 2012, the tenant did not appear. I find that the tenant has been duly served in accordance with the Act.

Preliminary issue

In this case, the Application for Dispute Resolution and Notice of Hearing were posted on the door, under the Residential Tenancy Policy Guideline #12 the Act permits service in this manner when the application by the landlord is for an order of possession.

As the landlords' application also included a monetary order for unpaid rent, I find there is no provision under the Act, which would allow me to proceed with the landlords' monetary claim as a monetary claim must be served in person or sent by registered mail to the tenant's address in which they reside. As a result the landlords' monetary claim is dismissed with leave to reapply.

This hearing proceeded on the landlords' application for an order of possession.

The landlord gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

Issue(s) to be Decided

Are the landlords entitled to an order of possession for unpaid rent?

Background and Evidence

Based on the testimony of the landlord, I find that the tenant was served with a notice to end tenancy for non-payment of rent on August 2, 2012, by posting to the door of the rental unit, which was witnessed. The notice informed the tenant that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenant had five days to dispute the notice.

The landlord testified the tenant has not paid all rent owed for July, 2012 and no rent for August 2012 and September 2012 and seeks an order of possession.

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 Notice and is therefore 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 landlords are 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.

Conclusion

The landlords' application for a monetary order for unpaid rent is dismissed with leave to reapply.

The tenant failed to pay rent and did not file to dispute the notice to end tenancy. The tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlords are granted an order of possession.

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: September 21, 2012.

Residential Tenancy Branch