



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, ET, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, a monetary order for unpaid rent and to recover the cost of filing the application from the tenant.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?
Is the landlord entitled to a monetary order?
Is the landlord entitled to recover the cost of the filing fee?

Background and Evidence

Based on the testimony of landlord, I find that the tenant was served with a notice to end tenancy for non-payment of rent (the "notice"), by personal service. 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.

On May 10, 2012, the tenant filed an application for dispute resolution to cancel the notice. On June 5, 2012, at the Dispute Resolution Hearing the tenant failed to prove the landlord was served with the notice of hearing and the tenant's application was dismissed with leave. The tenant did not reapply.

The landlord testified the tenant did not pay all rent owed within five days as required by the notice and the tenant has failed to pay rent for July, August, and September 2012.

The tenant acknowledges rent has not been paid, however, it was not her fault.

Analysis

Based on the above, the testimony, and evidence, and on a balance of probabilities, I find as follows:

The tenant did not pay the outstanding rent within five days of receiving the notice. While the tenant did apply for dispute resolution that application was dismissed with leave. The tenant did not reapply for that application and the time for making that application has expired as no extension of the statutory deadline was granted. The landlord is entitled to an order of possession pursuant to Section 55(2)(b) of the Act.

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.

26 (1) 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.

The tenant stated it was not her fault that rent has not been paid, however, the Act states the tenant must pay rent when due under the tenancy agreement. The tenant has acknowledged rent has not been paid for July, August and September 2012, and it was the tenant's responsibility to ensure rent was paid as required by the Act and the tenancy agreement.

I find that the landlord has established a total monetary claim of **\$2,150.00** comprised of unpaid rent for July, August, September 2012 and the \$50.00 fee paid by the landlord for this application. I grant the landlord an order under section 67.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

Conclusion

The tenant failed to pay rent. The landlord is granted to an order of possession. The landlord is granted a monetary order in the above amount.

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: October 15, 2012.

Residential Tenancy Branch