



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 an Application for Dispute Resolution by the landlords for an order of possession, a monetary order for unpaid rent, and to recover the cost of the filing fee from the tenant.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on September 14, 2012, a Canada post tracking number was provided as evidence of service. The delivery notice card left by Canada post for the tenant was returned and written on the delivery card is "mailmans return to sender". [Reproduced as written] Filed in evidence is a copy of the delivery notice.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenant has been duly served in accordance with the Act. I note refusal to accept service is not grounds for a Review.

The landlord appeared, gave affirmed 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

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 on September 4, 2012 by personal service, 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 security deposit of \$247.50 was applied to unpaid rent for August 2012, at the request of the tenant. The landlord stated the tenant still owes rent arrears in the amount of \$127.50 for August 2012. The landlord stated the tenant

has further rent arrears for September 2012, in the amount of \$250.00 and has not paid any rent for October 2012. The landlords seek to recover unpaid rent in the amount of \$872.50.

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 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.

I find that the landlord has established a total monetary claim of **\$922.50** comprised of unpaid rent and the \$50.00 fee paid by the landlord for this application. I grant the landlord an order under section 67 of the Act.

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 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 landlord is granted an order of possession. I grant a monetary order for the above balance.

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 17, 2012.

Residential Tenancy Branch