



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *OPR, CNR, MNR, FF*

Introduction,

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession and for a monetary order for unpaid rent and the filing fee. The tenant applied for an order to cancel the notice to end tenancy and for an order directing the landlord to supply furniture that was not provided as per the tenancy agreement.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord entitled to an order of possession or should the notice to end tenancy be set aside? Is the landlord entitled to a monetary order for unpaid rent? Is the tenant entitled to the order directing the landlord to supply furniture?

Background and Evidence

The landlord and tenant entered into a tenancy agreement on July 01, 2012 for a fixed term of six months. The rent is \$1,750.00 per month due on the first day of each month. The rental unit is described as furnished. Prior to moving in the tenant paid a security deposit of \$875.00.

The landlord stated that the tenant failed to pay rent on November 01, 2012 and on November 10, the landlord served the tenant a notice to end tenancy by email. The tenant applied to dispute the notice on November 14, 2012.

The landlord stated that she also mailed the notice to end tenancy by registered mail to the rental unit and provided a tracking number. The tenant stated that he did not receive notification and therefore did not pick up mail. The tenant stated that he does not have a mail box in the town that he is residing in and therefore did not receive any mail from the landlord. However he does have a mail box in a city that is a 90 minute drive away.

The issue of mail was discussed at length. Despite not having received a paper copy of the notice to end tenancy, the tenant agreed that he had received a two page notice by email and had disputed the notice in a timely manner. The tenant also agreed that at the time of the hearing he owed the landlord rent for November and December for a total amount of \$3,500.00.

The tenant stated that the landlord did not provide adequate furniture as was agreed upon in the tenancy agreement. The tenant stated that he made several requests that the landlord did not act upon. Therefore in order to “take a stand”, the tenant decided to withhold rent.

The landlord has applied for an order of possession effective two days after service on the tenant and for a monetary order in the amount of \$3,500.00 plus \$50.00 for the filing fee.

Analysis

The tenant received the notice to end tenancy for unpaid rent, on November 10, 2012 and did not pay rent within five days of receiving the notice to end tenancy, and the time to do so has expired.

In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. Pursuant to section 55(2) I am issuing a formal order of possession effective two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement.

Based on the sworn testimony of both parties, I accept the landlord’s evidence in respect of the claim. As agreed to by the tenant, I find that the tenant did not pay rent for two months and owes the landlord a total of **\$3,500.00** in unpaid rent.

Since the landlord has proven her case, she is also entitled to the recovery of the filing fee of **\$50.00**. Accordingly, I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of **\$3,550.00**. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Since the notice to end tenancy is upheld and the tenancy is ending, the tenant’s application for an order directing the landlord to supply furniture is not necessary.

Conclusion

I grant the landlord an order of possession effective two days after service on the tenant. I also grant the landlord a monetary order in the amount of **\$3,550.00**.

The tenant's application is dismissed in its entirety.

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: December 20, 2012.

Residential Tenancy Branch