



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

Introduction

This hearing was convened by way of conference call in response to the landlord's application for an Order of Possession for unpaid rent.

The tenant and landlord attended the conference call hearing and gave sworn testimony. The landlord provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. All evidence and testimony of the parties has been reviewed and are considered in this decision.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession due to unpaid rent?

Background and Evidence

The parties agree that this month to month tenancy started approximately 10 years ago. Rent for this unit is \$714.00 per month and is increasing to \$740.00 per month on February 01, 2013. Rent is due on the 1st of each month.

The landlord testifies that the tenant paid \$357.00 in rent for October leaving an unpaid balance of \$357.00. The tenant failed to pay any rent for November and December and the landlord served the tenant with a 10 Day Notice to End Tenancy by posting it on the tenants door on December 21, 2012. This Notice informs the tenant that they have five days to pay the outstanding rent of \$1,856.00 or dispute the notice or the tenancy will

end on January 03, 2013. Since the Notice was served the tenant has failed to pay the outstanding rent and has also failed to pay rent for January, 2013.

The landlord seeks an Order of Possession and will extend the date they wish the tenant to move from the rental unit to February 28, 2013.

The tenant does not dispute that he owes rent to the landlord for October, November, December, 2012 and January, 2013. The tenant states he is aware the landlord is entitled to an Order of Possession.

Analysis

Section 26 of the *Residential Tenancy Act (Act)* states: *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.*

There is no dispute that the tenant owes rent to the landlord of \$2,499.00. I accept that the tenant was served the 10 Day Notice to End Tenancy for unpaid rent, pursuant to section 88 of the *Residential Tenancy Act*. The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the outstanding rent as shown on the 10 Day Notice within five days nor did the tenant apply to dispute the Notice to End Tenancy within five days.

Based on the foregoing, I find that the tenant is conclusively presumed, under section 46(5) of the *Act*, to have accepted that the tenancy ended on the effective date of the Notice and grant the landlord an order of possession pursuant to s. 55 of the *Act*.

Conclusion

I HEREBY ISSUE an Order of Possession in favour of the landlord effective **on February 28, 2013**. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

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: January 29, 2013

Residential Tenancy Branch

