



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 a landlord's application for an Order of Possession and a Monetary Order for unpaid rent. The landlord provided oral testimony that the tenant was served with the hearing documents via registered mail sent to the tenant at the rental unit on February 22, 2013. The landlord provided a registered mail tracking number as proof of service and confirmed that the tenant was living in the rental unit at the time of mailing. I was satisfied the landlord sufficiently served the tenant with notice of this proceeding and I continued to hear from the landlord without the tenant present.

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 for unpaid rent?

Background and Evidence

The landlord submitted that prior to October 2012 the respondent resided in the rental unit with his girlfriend. The landlord had a written tenancy agreement identifying the girlfriend as the tenant. The girlfriend moved out in September 2012 and the tenant verbally agreed to rent the unit from the landlord for \$1,000.00 payable on the 1st day of every month starting October 1, 2012. The tenant did not pay a security deposit.

The tenant paid the landlord \$500.00 for rent in mid-October 2012 and nothing since. On February 4, 2013 the landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) indicating rent totalling \$4,400.00 was outstanding and a stated effective date of February 14, 2013. The Notice was posted on the door on February 6, 2013.

I noted that the landlord was requesting recovery of \$4,400.00 as opposed to \$4,500.00. The landlord acknowledged that she erred in her calculation of outstanding rent in preparing the 10 Day Notice and this Application for Dispute Resolution.

The tenant did not file to dispute the Notice and did not pay the outstanding rent after it was posted.

Documentary evidence provided for this proceeding consisted of the 10 Day Notice.

Analysis

Based upon the undisputed submissions of the landlord I accept that a tenancy formed between the parties and that the tenant had agreed to pay rent of \$1,000.00 on the 1st day of every month starting October 1, 2012.

Under the Act a tenant is required to pay rent when due in accordance with their tenancy agreement. Where a tenant does not pay rent the landlord is at liberty to issue a 10 Day Notice to End Tenancy.

When a tenant receives a 10 Day Notice the tenant has five days to pay the outstanding rent to nullify the Notice or the tenant has five days to dispute the Notice by filing an Application for Dispute Resolution. If a tenant does not pay the outstanding rent or dispute the Notice within five days then, pursuant to section 46(5) of the Act, the tenant is conclusively presumed to have accepted the tenancy will end and must vacate the rental unit by the effective date of the Notice.

I accept the evidence before me that the landlord posted a 10 Day Notice to the tenancy on the tenant's door on February 6, 2013. . As the 10 Day Notice was posted it is deemed to be received three days later. Accordingly, the effective date of the Notice automatically changes to comply with the Act and reads February 19, 2013 pursuant to sections 46, 53 and 90 of the Act

Since the tenant did not pay the outstanding rent or dispute the Notice within five days of receiving the Notice I find the tenancy ended on February 19, 2013 and the landlord is entitled to regain possession of the rental unit. Provided with this decision is an Order of Possession effective two (2) days after service upon the tenant.

Based upon the evidence before me, I am satisfied the tenant owes the landlord at least \$4,400.00 in rent and I grant this amount to the landlord, as requested. I also award the landlord the filing fee paid for this application.

In light of the above, the landlord is provided a Monetary Order in the total amount of \$4,450.00 to serve upon the tenant and enforce as necessary.

Conclusion

The landlord has been provided an Order of Possession effective two (2) days after service upon the tenant. The landlord has been provided a Monetary Order in the amount of \$4,450.00 to serve upon the tenant and enforce as necessary.

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: March 12, 2013

Residential Tenancy Branch

