



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BAYSIDE PROPERTY SERVICES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MNR OPR MNSD FF

Introduction:

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act for orders as follows:

- a) A monetary order pursuant to Section 67;
- b) An Order of Possession pursuant to Sections 46, and 55;
- c) An Order to retain the security deposit pursuant to Section 38; and
- d) An order to recover the filing fee pursuant to Section 72.

SERVICE:

The tenant did not attend. The landlord provided evidence of service of the Notice to End Tenancy dated April 9, 2013 by posting it on the door on April 9, 2013 and of service of the Application for Dispute Resolution and amendment by registered mail. It was verified online as successfully delivered. I find that the tenant was properly served with the documents according to sections 88 and 89 of the Act.

Issue(s) to be Decided:

The tenant was issued a Notice to End Tenancy dated April 9, 2013 for unpaid rent. Is the landlord now entitled to an Order of Possession and to a Monetary Order for rental arrears and filing fee?

Background and Evidence:

The tenant did not attend although served with the Application/Notice of Hearing. The landlord was given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenant commenced living in the premises in February 1, 2013, a security deposit of \$512.50 was paid in January 2013 and rent is currently \$1025 a month. It is undisputed that the tenant paid rent for April on April 23 and rent for May on May 6, 2013 and the landlord testified that receipts "for use and occupancy only" were issued. The landlord requests an Order of Possession and to recover the filing fee from the security deposit. The tenant did submit any evidence in dispute.

On the basis of the solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

Order of Possession

I find that the landlord is entitled to an Order of Possession. Although the outstanding rent was paid, I find it was not paid within the 5 days from April 12th when the Notice to End Tenancy was deemed to be received and the Tenant did not made application pursuant to Section 46 to set aside the Notice and the time to do so has expired. I find the outstanding rent was not paid until April 23, 2013 and a receipt for “use and occupancy only” was issued. . 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. An Order of Possession is issued effective two days from service is issued to the landlord.

Monetary Order

No monetary order for rental arrears is required.

Conclusion:

I find the landlord is entitled to an Order of Possession effective two days from service and to recover filing fees paid for this application.

I HEREBY ORDER that the landlord may deduct \$50 from the tenant’s security deposit to recover the filing fee. A balance of \$462.50 will remain in trust for the tenant.

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: May 17, 2013

Residential Tenancy Branch

