



Dispute Resolution Services

Page: 1

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 landlord for an order of possession, a monetary order for unpaid rent and to recover the cost of filing the application.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail on June 11, 2013, a Canada post tracking number was provided as evidence, the tenant did not appear. I find that the tenant has been duly served in accordance with the Act. Under the legislation refusal or neglect to pick up the package is not grounds for 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 for unpaid rent?
Is the landlord entitled to recover the cost of the filing fee?

Background and Evidence

Based on the testimony of the landlord, I find that the tenant was served with a notice to end tenancy for non-payment of rent on June 2, 2013, by personal service and by posting to the door of the residence, 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. Filed in evidence is a copy of the notice to end tenancy and a copy of the proof of service.

The landlord testified that this tenancy agreement was with her daughter and commenced in October 2009. The rent payable was \$2,696.00, due on the first of the

month. No security deposit was paid by the tenant. Filed in evidence is a copy of a cheque issued by the tenant in the amount of \$2,696.00 for October 2009, rent. Written in the memo section of the cheque is, "rent".

The landlord testified that in April 2011, the tenant and her grandchildren asked her if the monthly rent could be reduced by \$500.00. The landlord stated that she did not agree to any reduction of rent. However, her daughter the tenant decided to only pay her \$2,200.00 per month in two separate payments of \$1,100.00 each month. The landlord stated this created a shortfall of \$469.00 per month since April 2011. The landlord seeks to recover unpaid rent in the amount of \$11,904.00.

The landlord testified that tenant only paid \$1,100.00 for May 2013, rent and has paid no rent for June 2013. The landlord seeks to recover unpaid rent for April and May 2013, in the amount of \$4,292.00.

The landlord testified that this has been an ongoing problem and has even been assaulted by her daughter the tenant when trying to resolve the issue of unpaid rent. The landlord seeks an order of possession.

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 **\$16,296.00** comprised of unpaid rent and the \$100.00 fee paid by the landlord for this application. I grant the landlord a formal 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.

The landlord is granted a monetary order for unpaid rent.

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: June 27, 2013

Residential Tenancy Branch

