



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing was scheduled to deal with a landlord's application for an Order of Possession and a Monetary Order for unpaid rent; and, authorization to retain the security deposit. The tenant did not appear at the hearing. The landlord testified that he posted the hearing documents on the door of the rental unit on August 8, 2013. The landlord confirmed that the tenant continues to be in possession of the rental unit as his belongings are still in the rental unit.

Section 89 of the Act determines the method of service for documents related to a dispute resolution proceeding. Posting on the rental unit door is sufficient for purposes of requesting an Order of Possession but does not meet service requirements with respect to monetary claims. Therefore, I proceeded to consider the landlord's request for an Order of Possession and dismissed the landlord's monetary claim with leave to reapply.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

The tenancy started in June or July 2012 and the tenant was required to pay rent of \$850.00 on the 1st day of every month. The tenant did not pay rent for May, June and July 2013. The tenant and the owner agreed that the tenant would perform services at the residential property (ie: painting) by the end of July 2013 in satisfaction of the rent owed for those three months. I heard the tenant performed only some of the services agreed upon. The tenant was required to resume rent payments starting August 1, 2013. The tenant failed to pay rent for the month of August 2013 when due and on August 2, 2013 the landlord personally served the tenant with a 10 Day Notice to End

Tenancy for Unpaid Rent (the Notice). The Notice indicates rent of \$850.00 was outstanding as of August 1, 2013 and has a stated effective date of August 12, 2013.

The landlord confirmed that the tenant did not pay the outstanding rent for August 2013 and the tenant did not file to dispute the Notice. Nor, has the tenant returned vacant possession of the rental unit to the landlord.

Analysis

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 served the tenant with a 10 Day Notice to end the tenancy on August 2, 2013. 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 August 12, 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.

I award the \$50.00 filing fee to the landlord and authorize the landlord to deduct this amount from the security deposit in satisfaction of this award.

Conclusion

The landlord has been provided an Order of Possession effective two (2) days after service upon 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: September 17, 2013

Residential Tenancy Branch

