



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 an Application for Dispute Resolution by the landlord for an order of possession, and a monetary order for unpaid rent.

The landlord attended the hearing. As the tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were personally served on the tenant (JJ) on August 16, 2013. The landlord stated the tenant signed an acknowledgement of receipt. The tenant (JJ) did not appear. I find that the tenant (JJ) has been duly served in accordance with the Act.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were served on the tenant (WJ), by registered mail on August 16, 2013. a Canada post tracking number was provided as evidence of service, the tenant did not appear.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenant (WJ) has been duly served in accordance with the Act.

The landlord appeared, gave 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?

Background and Evidence

The tenancy began on April 29, 2012. Rent in the amount of \$1,150.00 was payable on the first of each month. A security deposit of \$575.00 was paid by the tenants. The landlord stated that during the tenancy he agreed to lower the rent to \$1,050.00.

The landlord testified that the tenants were served with a notice to end tenancy in April 2013, by posting to the door. However, the tenants informed him that they never received a copy.

The landlord testified that he then reissued the notice to end tenancy on August 4, 2013, and he personally served the tenants with a copy of that notice. Filed in evidence is a copy of a notice to end tenancy for non-payment of rent.

The notice informed the tenants 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.

The landlord testified that the tenants were in rent arrears of \$735.00 for May and June 2013, a further \$580.00 for July 2013, and \$700.00 for August 2013. The landlord stated the tenants have paid no rent for September 2013. The landlord seeks to recover unpaid rent in the amount of \$3,065.00. 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 tenants have not paid the outstanding rent and did not apply to dispute the Notice and are 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 tenants. 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 **\$3,115.00** comprised of unpaid rent and the \$50.00 fee paid by the landlord for this application.

I order that the landlord retain the deposit and interest of \$575.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$2,540.00**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

Conclusion

The tenants failed to pay rent and did not file to dispute the notice to end tenancy. The tenants are 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, and may keep the security deposit and interest in partial satisfaction of the claim. I grant a monetary order for the balance due.

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 24, 2013

Residential Tenancy Branch

