



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This hearing was convened by way of conference call in response to an application by the landlords for an Order of Possession and a Monetary Order for unpaid rent or utilities.

The landlords made the application and personally served the tenant with a copy of the application and the Notice of Hearing documents. In the absence of any evidence from the tenant to refute this, I find that the tenant was served the hearing documents as per the requirements of the *Residential Tenancy Act* (referred to as the 'Act').

One of the landlords attended the hearing to give affirmed testimony and was also permitted, under Section 11.5 of the Rules of Procedure, to provide a copy of the notice to end tenancy after the hearing had concluded. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Act*. All of the testimony and documentary evidence submitted was considered in this Decision.

Issue(s) to be Decided

- Are the landlords entitled to an Order of Possession for unpaid rent?
- Are the landlords entitled to a Monetary Order for outstanding rent relating to August, September and October, 2013?

Background and Evidence

The landlord testified that the tenancy started in April 2013 on a month-to-month basis. Rent in the amount of \$725.00 is payable by the tenant on the last day of each month. The landlords did not take a security or pet damage deposit from the tenant.

The landlord testified that the tenant failed to pay rent when it was due on July 31, 2013 for the month of August, 2013. As a result, the landlords served the tenant with a 10

Day Notice to End Tenancy for Unpaid Rent on August 8, 2013 by registered mail. The landlord provided a copy of the Canada Post tracking number and a copy of the notice as evidence for the hearing. The notice shows an expected date of vacancy of August 10, 2013 with an amount of \$725.00 outstanding for unpaid rent due on July 31, 2013.

The landlord testified that the tenant also failed to pay for September, 2013 rent on August 31, 2013 and for October, 2013 rent on September 30, 2013 in the amount of \$725.00 for each month. As a result, the landlord now seeks to recover lost rent from the tenant for a total amount of \$2,175.00.

Analysis

The tenant failed to attend the hearing or provide any written submissions prior to this hearing taking place. In the absence of the undisputed testimony and evidence provided by the landlords, I make the following determination.

Section 46(4) and (5) of the *Residential Tenancy Act* states that within five days of a tenant receiving a Notice to End Tenancy for Unpaid Rent or Utilities, a tenant must pay the overdue rent or apply for dispute resolution; if the tenant fails to do either, then they are conclusively presumed to have accepted the notice to end tenancy and they must vacate the rental unit on the date to which the notice relates.

Having examined the notice to end tenancy, I find that the contents complied with the requirements of the *Act*.

As a result, I accept that the tenant was served by the landlord with the notice to end tenancy on August 8, 2013 by registered mail. Section 90 of the *Act* provides that a document is deemed to have been served five days after such mailing. Therefore, the tenant had until August 18, 2013 to pay the overdue rent or apply to dispute the notice as required by the *Act*, neither of which the tenant did. As a result, I find that the tenant is conclusively presumed to have accepted that the tenancy ended as per the notice, and therefore the landlords are entitled to an Order of Possession.

In relation to the monetary claim, I award the landlord the outstanding rent for the months of August and September, 2013. Since the tenant is still occupying the rental suite and has not paid rent for October, 2013, the landlord may not be able to re-rent the unit until the middle of the month after the eviction process. Therefore, I also award the landlord half of the rent payable for October, 2013 in the amount of \$362.50. Therefore the landlord is awarded a total of \$1,812.50.

Conclusion

For the reasons set out above, I grant the landlords an Order of Possession effective **2 days after service on the tenant**. This order may then be filed and enforced in the Supreme Court as an order of that court.

I also grant the landlord a Monetary Order pursuant to Section 67 of the *Residential Tenancy Act* in the amount of **\$1,812.50**. This order must be served on the tenant and may then be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

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: October 02, 2013

Residential Tenancy Branch

