



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Richmond Legion Senior Citizens Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession and recovery of the filing fee paid to bring her application. Despite having been served with the application for dispute resolution and notice of hearing via registered mail sent on September 5, 2013, the tenant did not participate in the conference call hearing.

At the hearing, the landlord asked to amend her claim to include a monetary claim for rental arrears. As the tenant did not appear at the hearing and as he had no notice that the landlord intended to make such a claim, I denied the landlord's request. The landlord is at liberty to file a claim for arrears in the future.

Issue to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

The landlord testified that the tenant is responsible to pay \$304.50 in rent in advance on the first day of each month and that he failed to pay rent from April – August inclusive. The tenant also accrued late payment fees and NSF fees. On August 19, the landlord personally served on the tenant a 10 day notice to end tenancy for unpaid rent (the "Notice"). The tenant made two partial payments, one of \$900.00 and one of \$315.00, but did not pay off the arrears and also failed to pay rent in September and October.

Analysis

I accept the landlord's undisputed testimony and I find that the tenant failed to pay the full amount of rent due in the aforementioned months and I further find that the tenant received the Notice on August 19. The tenant did not pay the full amount of arrears or dispute the Notice within 5 days of receipt and pursuant to section 46(5) of the Act, is

conclusively presumed 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. The tenant must be served with this order and should he fail to comply, it may be filed in the Supreme Court for enforcement.

As the landlord has been successful in her application, I find that she should recover the \$50.00 filing fee and I grant her a monetary order under section 67 for this sum. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is awarded an order of possession and a monetary order for \$50.00.

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 10, 2013

Residential Tenancy Branch

