



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Pleasantvale Homes Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing was convened by way of conference call in response to the landlord's application for an Order of Possession for unpaid rent; for a Monetary Order for unpaid rent; for an Order permitting the landlord to keep all or part of the tenant's security deposit; and to recover the filing fee from the tenant for the cost of this application.

The hearing documents were served, by the landlord to the tenant, by posting them to the tenant's door on September 26, 2013.

The landlord's agents appeared, gave sworn testimony, were provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Is the landlord entitled to an Order of Possession due to unpaid rent?
- Is the landlord entitled to a Monetary Order for unpaid rent?
- Is the landlord permitted to keep the security deposit?

Background and Evidence

The landlord testifies that this month to month tenancy started on January 01, 2013. Rent for this unit is \$465.00 per month and is due on the 1st of each month. The tenant paid a security deposit of \$212.50.00 at the start of the tenancy.

The landlord testifies that the tenant failed to pay rent to an amount totalling \$981.67. The landlord served the tenant with a 10 Day Notice to End Tenancy for unpaid rent by leaving it with an adult who was house-sitting for the tenant on September 04, 2013. This Notice informed the tenant that he owes rent of \$981.67 and has five days to either pay the rent or dispute the Notice or the tenancy will end on September 15, 2013. The landlord testifies that since serving that Notice the tenant abandoned the unit on or about September 04 or September 05, 2013.

The landlord seeks an Order to recover the unpaid rent and to keep the security deposit to offset against the unpaid rent.

Analysis

I have reviewed all documentary evidence and find with regard to the landlord application for a Monetary Order for unpaid rent; sections 88 and 89 of the *Act* determine the method of service for certain documents. The landlord has applied for a Monetary Order which requires that the landlord serve the tenant as set out under Section 89(1). As the landlord posted the application and Notice of Hearing to the tenant's door, this method of service is not acceptable under section 89(1) of the *Act*.

Furthermore, the landlord posted these documents after the tenant abandoned the unit. To find in favour of an application, I must be satisfied that the rights of all parties have been upheld by ensuring the parties have been given proper notice to be able to defend their rights. In the absence of proof that the tenant was served with the hearing

documents in accordance with the section 89 of the *Act*, I dismiss the landlord's application with leave to reapply.

Conclusion

The landlords application is dismissed with leave to reapply.

As the landlord has established that the tenant abandoned the unit the landlord does not require an Order of Possession. The landlord may deal with any abandoned belongings in accordance with part five of the Residential Tenancy Regulations.

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: November 04, 2013

Residential Tenancy Branch

