



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF MNDC MNR OPR

Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order. The landlord participated in the conference call and gave affirmed evidence. The tenant did not participate.

The landlord said that he personally served the tenant with the Notice of a Dispute Resolution hearing on December 16, 2013. I find that the tenant was duly served with notice of the hearing.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The landlord testified that the parties entered into a tenancy agreement commencing September 1, 2012 wherein the tenant is obligated to pay \$600.00 in rent in advance on the first of the month. There was no security deposit.

The landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") and served it on the tenant by posting it on the rental unit door on November 14, 2013. Section 90 of the Act provides that because the Notice was served by posting it on the tenant's door, the tenant is deemed to have received the Notice three days later on November 17, 2013.

The landlord gave evidence that the tenant made only a partial rent payment for October and still owes \$250.00 for that month. The tenant has not paid any rent for November or December 2013 or for January 2014.

The landlord testified that the tenant partially moved out in November and has returned to the rental unit occasionally to pick up a few boxes of belongings. She has been in contact with him by text message and has promised to move the rest of her belongings from the rental unit, but has not yet done so. He has not seen the tenant at the rental unit in the past 30 days, although he has seen her boyfriend who has recently been occupying the unit.

The landlord states there is no longer any bed in the suite. There is a sofa, older television set, an old desk, and a pile of dirty dishes. He estimates the value of the tenant's remaining belongings at perhaps \$200.

The landlord also testified that he wishes to move into the rental unit himself so that his daughter and her children may move into the upstairs unit that he now occupies.

Analysis

I find that the tenant received the Notice on November 17, 2013. I accept the landlord's undisputed evidence and I find the tenant did not pay the rental arrears and did not apply to dispute the Notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. I grant the landlord an order of possession which must be served on the tenant. Should the tenant fail to comply with the order, it may be filed for enforcement in the Supreme Court.

I find that the landlord is entitled to consider the tenant's remaining personal property to have been abandoned, pursuant to section 24(1)(b) of the Regulation. The landlord may take immediate steps to dispose of the property by the procedure set out in Part 5 of the Regulation.

I accept the landlord's evidence that the tenant failed to pay \$250.00 in rent for October 2013 and \$600.00 in rent for November 2013. Had the tenant moved out of the rental unit by December 1, 2013 (the date specified in the Notice), the landlord would not have sought new tenants since he intends to occupy the unit himself. However, the tenant's failure to vacate the rental unit has caused the landlord and his family inconvenience and uncertainty regarding their living arrangements. The landlord is therefore entitled to occupational rent for the period from December 1, 2013 until such time as he is entitled to and can reasonably remove the tenant's remaining personal property from the rental unit. For the purpose of this decision, I fix that time at January 5, 2014. The landlord is awarded \$850.00 in rental arrears for October and November 2013, \$600.00 in occupational rent for December 2013 and \$96.77 in occupational rent for the first five days of January 2014.

The landlord also claims and is entitled to the RTB filing fee of \$50.00.

Conclusion

I grant the landlord an order of possession and a monetary order for \$1,596.77.

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: January 03, 2014

Residential Tenancy Branch