



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession. The hearing was conducted by conference call. The landlord called in and participated in the hearing. The tenant did not appear although he was served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on February 2, 2014. The tenant was also served with the application by posting it to the door of the rental unit after it was mailed to the tenant.

Issues

Is the landlord entitled to an order of possession?

Background and Evidence

The landlord testified that the tenancy began a number of years ago. There is a written tenancy agreement, but I was not provided with a copy. The rent is \$1,100.00, inclusive of parking. The landlord testified that the tenant is habitually late paying rent and regularly does not pay until a 10 day Notice to End Tenancy has been given to him. The tenant did not pay rent for February when it was due. On February 3, 2014 the landlord served the tenant with a Notice to End Tenancy for non-payment of rent by posting it to the door of the rental unit. The tenant paid February rent on March 2, 2014. The landlord gave the tenant a receipt for use and occupancy only. Rent for March and April have also been paid late and the payments have been accepted for use and occupancy only. The tenant did not pay rent for February within the time required by the Notice to End Tenancy and he did not file an application to dispute the Notice to End Tenancy. The landlord has requested an order for possession and recovery of the filing fee for this application.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

Order of Possession - Based on the above background, evidence and analysis I find that the landlord is entitled to an order of possession effective on April 30, 2014 after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The landlord is entitled to recover the \$50.00 filing fee for this application. He may deduct the said sum from the security deposit that he holds.

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: April 11, 2014

Residential Tenancy Branch

