



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

For the tenant – CNR, MNDC,

For the landlord - OPR

Introduction

This hearing was convened by way of conference call in response to both parties' applications for Dispute Resolution. The tenant applied to cancel a Notice to End Tenancy for unpaid rent, and for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement. The landlord applied for an Order of Possession for unpaid rent.

The hearing went ahead as scheduled however the tenant failed to dial into the conference call during call. Therefore, no hearing took place regarding the tenant's application as the tenant has failed to present the merits of their application. Consequently the tenant's application is dismissed without leave to reapply.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*, the landlord's agent testifies that the tenant was served in person by the landlord's agent on March 14, 2014.

The landlord and an agent for the landlord appeared, gave sworn testimony, were provided the opportunity to present evidence orally, in writing, and in documentary form. 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?

Background and Evidence

The landlord's agents testify that this tenancy started on November 23, 2013. Rent for this unit was \$600.00 per month and was due on the 1st day of each month. The tenant paid a security deposit of \$250.00 on November 23, 2013.

The landlord's agent testifies that the tenant failed to pay the rent owed for January, February and March 2014 of \$1,800.00. The landlord issued 10 Day Notices to End Tenancy for unpaid rent on February 17 and February 25, 2014. The landlord also served the tenant with a 10 Day Notice on March 04, 2014. The landlord seeks to rely on this Notice as provided in evidence. The 10 Day Notice was posted to the tenant's door on March 04, 2014. This Notice was deemed to have been served three days after posting. The tenant had five days to either pay the outstanding rent or apply for Dispute Resolution or the tenancy would end on March 14, 2014. The tenant did not pay the outstanding rent and although the tenant did file an application to dispute the Notice the tenant has not appeared at the hearing today. The landlord's agent testifies that they do not seek a Monetary Order to recover the rent but do seek an Order of Possession effective as soon as possible.

The landlord has provided a copy of the tenancy agreement, letters and a copy of three 10 Day Notices to End Tenancy in evidence.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of the landlord's agent and the landlord.

Section 26 of the Act states: *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

I accept that the tenant was served the 10 Day Notice to End Tenancy for unpaid rent, pursuant to section 88 of the *Residential Tenancy Act*. The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The Notice is deemed to have been received by the tenant on March 07, 2014 and the effective date of the notice is amended to March 17, 2014 pursuant to section 53 of the *Act*. I accept the evidence before me that the tenant has failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act*.

Based on the foregoing, I find that the tenant is conclusively presumed, under section 46(5) of the *Act*, to have accepted that the tenancy ended on the effective date of the Notice. As that date has since passed I grant the landlord an order of possession pursuant to s. 55 of the *Act*.

Conclusion

I HEREBY ISSUE an Order of Possession in favour of the landlord effective **two (2) days after service upon the tenant**. This order must be served on the Respondent. If the respondent fails to comply with this Order the Order may be filed in the Supreme Court and enforced as an order of that Court.

The tenant's application is dismissed in its entirety without leave to reapply.

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 09, 2014

Residential Tenancy Branch

