



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MND, OPR, FF

Introduction

This hearing dealt with a landlord's application for an Order of Possession and Monetary Order for unpaid rent. The tenant did not appear at the hearing. The landlord testified that the hearing documents were sent to the tenant at the rental unit address on April 4, 2014. The landlord provided the registered mail tracking number as proof of service. I was satisfied the landlord served the tenant with notification of this proceeding in a manner that complies with the Act and I continued to hear from the landlord without the tenant present.

On a procedural note, in filing this Application the landlord indicated the dispute code related to a monetary claim for damage to the property and in the details of dispute the landlord indicated there were issues with respect to garbage on the property; however, the landlord did not make a specific request compensation for damage or garbage removal. Further, I was not provided evidence that the landlord has yet suffered a loss due to damage or garbage and I find this portion of the landlord's claim pre-mature. Therefore, I did not hear further evidence with respect to a damage or garbage removal claim and the landlord is at liberty to reapply for compensation for such.

Issue(s) to be Decided

1. Is the landlord entitled to an Order of Possession for unpaid rent?
2. Is the landlord entitled to a Monetary Order for unpaid rent?

Background and Evidence

The landlord acquired this tenancy when she purchased the property and there is no written tenancy agreement. Nor, did the landlord receive a security deposit.

Under the oral terms of tenancy, the tenant was required to pay rent of \$850.00 per month. The tenant failed to pay \$100.00 of the rent due for December 2013 and did not

pay any rent for January 2014. On January 26, 2014 the landlord personally served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent indicating rent of \$950.00 was outstanding as of January 1, 2014. The tenant did not vacate the rental unit and did not pay the outstanding rent. Nor, did the landlord pursue an end of the tenancy based upon that 10 Day Notice. The landlord explained that it was not uncommon for the tenant to go into arrears and then catch up on the rent; however, after rent was not received for the following months, the landlord issued another 10 Day Notice to End Tenancy for Unpaid Rent on March 20, 2014. The 10 Day Notice was posted on the door of the rental unit on March 20, 2014 and indicated rent of \$2,650.00 was outstanding for the months of December 2013 through March 1, 2014. The tenant did not pay the outstanding rent and has not returned possession of the property to the landlord.

The landlord requested an Order of Possession and Monetary Order in the amount of \$3,500.00 for unpaid rent for the months of December 2013 through April 2014.

During the hearing I noted I had not been provided copies of the 10 Day Notices referred to by the landlord. I requested the landlord provide me with copies of the 10 Day Notices which she did shortly after the teleconference call ended. The content of the 10 Day Notices was consistent with the landlord's testimony.

Analysis

Under the Act, a tenant is required to pay rent when due in accordance with their tenancy agreement. A tenancy agreement is defined to include oral agreements between a landlord and tenant with respect to use and possession of a rental unit.

Where a tenant does not pay rent that is due, the landlord is at liberty to serve the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent. When a tenant receives a 10 Day Notice the tenant has five days to pay the outstanding rent to nullify the Notice or the tenant has five days to dispute the Notice by filing an Application for Dispute Resolution. If a tenant does not pay the outstanding rent or dispute the Notice within five days of receiving it then, pursuant to section 46(5) of the Act, the tenant is conclusively presumed to have accepted the tenancy will end and must vacate the rental unit by the effective date of the Notice.

I accept the evidence before me that the landlord posted a valid 10 Day Notice to End Tenancy for Unpaid Rent on the door of the rental unit on March 20, 2014. By virtue of section 90 of the Act, it is deemed to have been received by the tenant three days later on March 23, 2014. Since the tenant did not pay the outstanding rent or file to dispute

the Notice I find the tenancy ended 10 days later on April 2, 2014. Therefore, I find the landlord is entitled to regain possession of the rental unit. Provided with this decision is an Order of Possession effective two (2) days after service upon the tenant. The Order of Possession may be posted on the door of the rental unit or any other method of service permitted under section 88 of the Act. The tenant shall be deemed to have received the Order of Possession in accordance with section 90 of the Act.

Based upon the evidence before me, I find the landlord entitled to recover unpaid rent of \$3,500.00 for the months of December 2013 through April 2014 as claimed. I further award the landlord recovery of the \$50.00 filing fee paid for this Application for Dispute Resolution. The landlord is provided a Monetary Order in the total amount of \$3,550.00 to serve upon the tenant and enforce as necessary.

Conclusion

The landlord has been provided an Order of Possession effective two (2) days after service upon the tenant.

The landlord has been provided a Monetary Order in the amount of \$3,550.00 to serve upon the tenant and enforce as necessary.

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: May 23, 2014

Residential Tenancy Branch

