



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ROSE HOTELS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MNR OPR FF

Introduction:

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act for orders as follows:

- a) A monetary order pursuant to Section 67;
- b) An Order of Possession pursuant to Sections 46, and 55; and
- d) An order to recover the filing fee pursuant to Section 72.

SERVICE:

The tenant did not attend. The landlord gave sworn testimony that the Notice to end Tenancy dated May 5, 2014 was posted on the door and the Application for Dispute Resolution was also served by posting it on the door. I find that the tenant was legally served with the documents according to sections 88 and 89(2) of the Act for the purposes of obtaining an Order of Possession. However, as explained to the landlord in the hearing, I find this is insufficient service of the Application according to section 89(1) for the purposes of obtaining a monetary order.

Issue(s) to be Decided:

The tenant was issued a Notice to End Tenancy dated May 5, 2014 for unpaid rent. Is the landlord now entitled to an Order of Possession and to a Monetary Order for rental arrears and filing fee?

Background and Evidence:

The tenant did not attend although served with the Application/Notice of Hearing. The landlord attended and was given opportunity to be heard, to present evidence and to make submissions. The landlord explained that they had just bought the building in February 2014 and there were incomplete records. They noted the tenant had a security deposit of \$200 paid at an unknown time and rent is \$400 a month. They noted that the tenant has not paid rent for April, May, June and July 2014 so now is in arrears

of \$1600. In evidence is the Notice to End Tenancy and proof of service. The tenant submitted no documents in dispute.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

Order of Possession

I find that the landlord is entitled to an Order of Possession. There is outstanding rent. The Tenant has not made application pursuant to Section 46 to set aside the Notice to End a Residential Tenancy and the time to do so has expired. In these situations, the Residential Tenancy Act provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. An Order of Possession is issued effective two days from service.

Monetary Order

I find that there are rental arrears in the amount of \$1600. However, I find there was insufficient service of the Application to obtain a Monetary Order since the Application was not served according to section 89(1) either in person or by registered mail. I give the landlord leave to reapply within the legislated time limits to obtain a monetary order for monies owed.

Conclusion:

I find the landlord is entitled to an Order of Possession effective two days from service; the Order is enclosed. I dismiss the Application of the landlord for a monetary order and give the landlord leave to reapply to recover monies owed to them.

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: July 09, 2014

Residential Tenancy Branch

