



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CANADIAN MENTAL HEALTH ASSOCIATION - VERNON BRANCH
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing was convened by way of conference call in response to a Landlord's Application for Dispute Resolution (the "Application") for an Order of Possession and a Monetary Order for unpaid rent and to recover the filing fee for the cost of making the Application.

An agent for the Landlord appeared for the hearing and provided affirmed testimony as well as written evidence prior to the hearing. The Landlord's agent was also permitted, under Rule 11.5 of the *Rules of Procedure*, to provide a copy of the notice to end tenancy after the hearing had concluded which was subsequently provided on July 21, 2014.

There was no appearance by the Tenant during the 30 minute duration of the hearing and there was no submission of written evidence by the Tenant prior to the hearing. As a result, I focused my attention to the service of the documents by the Landlord.

The Landlord's agent testified that she had served the Tenant with a copy of the Application and the Notice of Hearing documents by registered mail on June 2, 2014, pursuant to Section 89(1) (c) of the *Residential Tenancy Act* (the "Act"). The Landlord provided a copy of the Canada Post tracking number during the hearing as evidence for this method of service; this number was noted in the file.

The Canada Post website indicates that the Tenant received and signed for the documents on June 16, 2014. Based on this evidence, I find that the Landlord served the Tenant with the documents for this hearing in accordance with the Act.

As a result, I have carefully considered the Landlord's agent's undisputed affirmed testimony and the documentary evidence in this decision as follows.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession for unpaid rent?
- Is the Landlord entitled to a Monetary Order for unpaid rent accumulated since the start of the tenancy?

Background and Evidence

The Landlord's agent testified that this tenancy started on September 10, 2013 on a month to month basis. A written tenancy agreement was completed and rent was established in the amount of \$485.00 payable by the Tenant on the first day of each month; however, in March, 2014 the rent was reduced to \$475.00. While a security deposit was requested by the Landlord, the Tenant did not pay one.

The Landlord's agent testified that since the beginning of the tenancy the Tenant has habitually paid rent in partial amounts. The Landlord provided in written evidence a monetary breakdown of rent payments made by the Tenant since the start of the tenancy. The Landlord's agent testified that by February 1, 2014 the Tenant was in rent arrears for the amount of \$406.00.

As a result, the Landlord personally served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") on February 18, 2014. The Notice was provided in written evidence and shows an expected date of vacancy of March 4, 2014 due to \$406.00 in unpaid rent due on February 18, 2014. The Landlord also provided a Proof of Service document which was signed by a witness verifying the method of service of the Notice to the Tenant.

The Landlord's agent testified that since the issuing of the Notice to the Tenant and the making of the Application, the Tenant has also failed to pay rent for the months of March, April, May, June and July, 2014 in the amount of \$475.00 for each month. As a result, the Landlord's Application discloses a monetary claim of **\$2,781.00** (\$406.00 up until February, 2014 and \$475 for the subsequent five months).

Analysis

Having examined the Notice, I find that the contents on the approved form complied with the requirements of the Act.

I also accept the Landlord's agent's verbal and written evidence that the Notice was personally served to the Tenant in accordance with Section 88(a) of the Act.

Sections 46(4) and (5) of the Act states that within five days of a Tenant receiving a Notice, a Tenant must pay the overdue rent or make an Application to dispute the Notice; if the Tenant fails to do either, then they are conclusively presumed to have accepted the Notice and they must vacate the rental unit on the date to which the Notice relates.

As a result, I find that the Tenant is conclusively presumed to have accepted that the tenancy ended on the vacancy date of the Notice and therefore, the Landlord is entitled to an Order of Possession which is effective two days after service on the Tenant as the vacancy date on the Notice has now passed.

Based on the written and verbal evidence of the Landlord above, and in the absence of any evidence from the Tenant to dispute this, I find that the Landlord is also entitled to unpaid rent in the amount claimed in the Application of **\$2,781.00**.

As the Landlord has been successful in this matter, the Landlord is also entitled to recover the **\$50.00** filing fee pursuant to Section 72(1) of the Act. Therefore, the total amount payable by the Tenant to the Landlord is **\$2,831.00**.

Conclusion

For the reasons set out above, I grant the Landlord an Order of Possession effective **two days after service on the Tenant**. This order may then be filed and enforced in the Supreme Court as an order of that court.

I also grant the Landlord a Monetary Order pursuant to Section 67 of the Act in the amount of **\$2,831.00**. This order must be served on the Tenant and may then be enforced in the Provincial Court (Small Claims) as an order of that court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: July 21, 2014

Residential Tenancy Branch

