



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR OPR OPC 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, or 47 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 two Notices to end Tenancy, one for cause dated May 24, 2014 and one for unpaid rent dated June 3, 2014, were served personally and the Application for Dispute Resolution was served by registered mail. It was verified online that notices were left for the tenant to pick up this registered mail from June 16, 2014 until July 2, 2014 when it was returned to the sender as unclaimed. I find that the tenant is deemed to be served with the Application according to sections 88 and 89 of the Act.

Issue(s) to be Decided:

The tenant was issued a Notice to End Tenancy dated June 3, 2014 for unpaid rent and a Notice to End Tenancy for cause dated May 24, 2014. 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 deemed to be served with the Application/Notice of Hearing. The landlord was given opportunity to be heard, to present evidence and to make submissions. The landlord testified that tenancy commenced on April 15, 2014, rent is \$1200 a month and a security deposit of \$600 was paid. The landlord testified that after the tenant received the Notice to End Tenancy on June 3, 2014, he paid partial rent of \$800 on June 16, 2014 and then paid the balance of rent owing at the end of June. He has paid rent for July but not for August yet and has not paid utilities in the

amount of \$204. The landlord requests an Order of Possession effective as soon as possible and a monetary order for \$204 plus the \$50 filing fee.

The landlord said the Notice to End Tenancy for cause was served because the tenant is interfering with the reasonable enjoyment of another tenant and neighbours by making disturbances at night. A neighbour had to call the Police. The tenant provided no documentary evidence to dispute. On the basis of the 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. Although the tenant paid partial rent in June, he did not pay the outstanding rent within the 5 days permitted in the legislation to cancel the Notice and he did not make application pursuant to Section 46 to set aside the Notice to End a Residential Tenancy and the time to do so has expired. In the matter of the section 47 Notice to End Tenancy for cause, the tenant did not file an Application to dispute this Notice within the 15 day limitation set out in section 47. 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 utility arrears in the amount of \$204. I find the landlord does not wish to use the security deposit to offset the amount owing but will hold it in trust and deal with it after the tenant has vacated.

Conclusion:

I find the landlord is entitled to an Order of Possession effective two days from service and a monetary order for \$204 plus \$50 filing fee.

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: August 01, 2014

Residential Tenancy Branch

