



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PARKASH INVESTMENTS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an Order of Possession based on unpaid rent, a Monetary Order for unpaid rent and to recover the filing fee for the Application.

The Landlord's agent, V.K. and his spouse, G.K. appeared at the hearing. The Tenant appeared with M.M., who acted as an interpreter and advocate for the Tenant. The hearing process was explained and the participants were asked if they had any questions. Both parties, as well as M.M. provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlord to an Order of Possession and monetary relief?

Background and Evidence

The parties signed a written tenancy agreement on February 22, 2001. The Tenant has resided in the rental unit since March 1, 2001. At the start of the tenancy, the rent was \$725.00 per month payable on the 1st of the month. The parties agreed that the rent has increased annually such that the current amount of rent is \$1,005.75. V.K. testified that he held \$384.33 as a security deposit.

The Tenant failed to pay August rent on time and on August 3, 2014 the Landlord issued a 10 day Notice to End Tenancy for Unpaid Rent or Utilities claiming \$1,005.75 owing for August 2014 and an effective date of August 13, 2014 (the "Notice"). Based on the testimony of V.K., and the Proof of Service in evidence, I find that the Tenant was served with the Notice on August 3, 2014 by posting to the door. Section 90 of the Act provides that documents served in this manner are deemed served three days later. As such, I find that the Tenant was served on August 6, 2014. The effective notice date automatically corrects under the Act to August 16, 2014.

The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days of service, namely August 11, 2014. The Notice also explains the Tenant had five days from the date of service to dispute the Notice by filing an Application for Dispute Resolution.

The Tenant, through M.M., testified that as he does not speak English, he did not understand the Notice. He brought the Notice to M.M. who explained the contents of the Notice to the Tenant.

The Landlord testified that the Tenant paid the August rent on August 29, 2014 and the September rent on September 3, 2014.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The Tenant did not pay the outstanding rent and did not apply to dispute the Notice within five days of service and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I note that the parties agreed that the Tenant would remain in the rental unit until October 12, 2014 at 1:00 p.m.

I find that the Landlord is entitled to an Order of Possession effective **1:00 p.m. on October 12, 2014**. This order may be filed in the Supreme Court and enforced as an order of that Court.

During the hearing the parties agreed that the rent due for the 12 days in October would be \$389.32.

I find that the Landlord has established a total monetary claim of \$50.00 comprised of the \$50.00 fee paid by the Landlord for this application.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The Tenant failed to pay rent and did not file to dispute the Notice to End Tenancy within five (5) days of service. The Tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy.

The Landlord is granted an order of possession and is granted a monetary order for 12 days of rent in the month of October 2014 as well as recovery of the filing fee.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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: September 17, 2014

Residential Tenancy Branch

