



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Makola Housing Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNDC, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord's agent.

At the outset of the hearing I noted that the tenancy agreement names both of the named respondents on the landlord's Application for Dispute Resolution, however, the tenancy agreement is only signed by the female tenant and as such, I find the landlord cannot name the male tenant as a respondent in this claim. I amend the landlord's Application to exclude the male named as respondent.

Section 89(1) of the *Residential Tenancy Act (Act)* stipulates that an application for dispute resolution (such as a monetary claim), when required to be given to one party by another, must be given in one of the following ways:

- (a) By leaving a copy with the person;
- (b) If the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) By sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) If the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
- (e) As ordered by the director under section 71 (1).

Section 89(2) states that an application for dispute resolution by a landlord seeking an order of possession must be given to the tenant in one of the following ways:

- (a) By leaving a copy with the person;
- (b) By sending a copy by registered mail to the address at which the person resides;
- (c) By leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;
- (d) By attaching a copy to a door or other conspicuous place at the address at which the tenant resides;

(e) As ordered by the director under section 71 (1).

The landlord submitted a signed Affidavit of Service which declares that on August 16, 2014 at 4:50 p.m. the landlord served the tenant with the Notice of Hearing documents by posting them on the rental unit door. Section 90 of the *Act* states a document is posted in this manner it is deemed served on the 3rd day after it is posted.

Based on the written submissions of the landlord, I find that the tenant has been sufficiently served with the Dispute Resolution Notice of Hearing documents pursuant to the *Act*, for the purposes of an order of possession.

In regard to the landlord's monetary claim Section 89 does not allow a landlord to post the documents to the rental unit door and as such, I find the landlord has failed to serve the tenant pursuant to the *Act* for the purposes of the monetary claim. However the landlord testified that they had met with the female tenant and she acknowledged that she had received the documents that had been posted on the door.

Based on the undisputed documentary evidence and testimony of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to Section 71 of the *Act* for the landlord's monetary claim.

At the outset of the hearing the landlord confirmed the tenant had vacated the rental unit and as such an order of possession is no longer required. I amend the landlord's Application to exclude the matter of possession.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 67, and 72 of the *Act*.

Background and Evidence

The landlord submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties for a month to month tenancy beginning on December 1, 2012 for the monthly market rent of \$1,200.00 due on the 1st of each month;
- A copy of a letter dated January 24, 2014 from the landlord to the tenant advising that effective May 1, 2014 the rental unit will no longer be subsidized and the new rent will be \$900.00 per month and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on July 8, 2014 with an effective vacancy date of July 23, 2014 due to \$2,026.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenant failed to pay the full rent owed for the months of May, June, July, August and September 2014 and that the tenant was served the 10 Day Notice to End Tenancy for Unpaid Rent by regular mail on July 8, 2014.

The Notice states the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the rent in full or apply to dispute the Notice to End Tenancy within five days. The landlord submits the tenant has failed to pay rent for the month of May 2014 in the amount of \$216.00 and \$900.00 per month for each of the months June, July, August and September 2014.

Analysis

Based on the landlord's undisputed evidence and testimony I find the landlord has established a total of \$3,816.00 in outstanding rent.

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$3,866.00** comprised of \$3,816.00 rent owed and the \$50.00 fee paid by the landlord for this application.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be enforced 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 *Residential Tenancy Act*.

Dated: October 9, 2014

Residential Tenancy Branch

