



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, FF

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for an order of possession and for a monetary order for unpaid rent, and the filing fee.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord entitled to an order of possession? Is the landlord entitled to a monetary order to recover unpaid rent and the filing fee?

Background and Evidence

The tenancy started on August 15, 2014. The rental unit consists of a home that has a basement suite. The tenants named on the landlord's application are the occupants of the basement. The tenants that lived upstairs moved out without informing the landlord. The tenants of the basement, who attended the hearing, stated that they had paid rent to the upstairs occupant. The landlord stated that he had received no rent for September, October or November 2014. On November 02, 2014 the landlord served the tenant with a ten day notice to end tenancy.

The landlord testified that the occupants of the upper suite were found to be using hydro without authorization and the police were involved. The services to the home are currently disconnected and the City by laws require the landlord to either restore services or remove all occupants.

The landlord is applying for an order of possession effective two days after service on the tenant.

Analysis

Based on the sworn testimony of the both parties, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy for unpaid rent, on November 02, 2014 and did not pay rent within five days of receiving the notice to end tenancy nor did the tenant 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 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. Pursuant to section 55(2) I am issuing a formal order of possession effective two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement.

Since the tenants stated that they had paid rent to the occupants of the upper suite and the landlord stated that he had not received any rent, I dismiss the landlord's application for a monetary order with leave to reapply, to enable him to pursue his application for rent with the occupants of the upper suite as well.

Conclusion

I grant the landlord an order of possession effective two days after service on the tenant

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: November 19, 2014

Residential Tenancy Branch

