



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord for an Order of Possession and a monetary order for unpaid rent or utilities; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and to recover the filing fee from the tenant for the cost of the application.

The landlord attended the hearing accompanied by an interpreter. The landlord and the interpreter each gave affirmed testimony. However, despite being served with the Landlord's Application for Dispute Resolution and notice of hearing documents personally on November 1, 2014, no one for the tenant attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony, and the only participants who joined the call were the landlord and the landlord's interpreter. The landlord's interpreter testified that the landlord served the documents on that date and in that manner and that the landlord's interpreter witnessed the landlord serving those documents. The interpreter did not provide any other testimony. In the circumstances, I find that the tenant has been served in accordance with the *Residential Tenancy Act*.

Issue(s) to be Decided

- Is the landlord entitled under the *Residential Tenancy Act* to an Order of Possession for unpaid rent?
- Has the landlord established a monetary claim as against the tenant for unpaid rent?
- Has the landlord established a monetary claim as against the tenant for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for rent of the garage under a separate agreement?

Background and Evidence

The landlord testified that this month-to-month tenancy began about 8 months ago, although the landlord is not sure of the date. No tenancy agreement was signed by the parties. Rent in the amount of \$800.00 per month was payable in advance on the 15th day of each month. The landlord requested a security deposit in the amount of \$400.00 from the tenant, but the tenant did not pay any of it.

The tenant failed to pay rent when it was due in September, 2014 and again in October, 2014 and the landlord personally served the tenant at the rental unit with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on October 20, 2014. A copy of the notice has been provided and it is dated October 20, 2014 and contains an expected date of vacancy of October 24, 2014 for unpaid rent in the amount of \$900.00 that was due on September 20, 2014 and for unpaid utilities in the amount of \$900.00 following written demand on September 20, 2014. The landlord testified that the utility is an error, and should be discounted.

The landlord further testified that the tenant is a plumber and sometime in August, 2014 the tenant started to use the garage for storing plumbing equipment and supplies. The landlord asked the tenant about use of the garage and the tenant agreed to pay an additional \$100.00. The notice to end tenancy contains an additional amount for the use of the garage.

The landlord further testified that the tenant is in arrears the sum of \$2,400.00 for rent of the rental unit for the months of September, October and November, 2014, and the landlord claims that amount as well as an Order of Possession. The landlord has waived the \$100.00 per month rental of the garage.

The landlord has not been served with an Application for Dispute Resolution by the tenant.

Analysis

The *Residential Tenancy Act* states that once a tenant is served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, the tenant has 5 days to pay the rent in full or dispute the notice. If the tenant does neither, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice and must move out by that date. The *Act* also states that incorrect effective dates contained in a notice to end a tenancy are changed to the nearest date that complies with the *Act*, which I find is October 30, 2014, being 10 days after service. I accept that the landlord personally

served the tenant with the notice, and has not paid the rent and has not disputed the notice, and is therefore conclusively presumed to have accepted the end of the tenancy, and the landlord is entitled to an Order of Possession.

With respect to the monetary order, I am satisfied that the tenant has failed to pay rent for the months of September, October and November, 2014 and the landlord has established a monetary claim in the amount of \$2,400.00.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$50.00 filing fee.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord on 2 days notice to the tenant.

I further grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$2,450.00.

These orders are final and binding and may be enforced.

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: December 08, 2014

Residential Tenancy Branch

