



Dispute Resolution Services

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 for an order of possession and a monetary order. Despite having been personally served with the application for dispute resolution and notice of hearing on November 25, 2014, the tenant did not participate in the conference call hearing.

Issue to be Decided

Does this tenancy fall under the jurisdiction of the *Residential Tenancy Act*?

If this tenancy falls under the jurisdiction of the Act, is the landlord entitled to an order of possession and a monetary order as claimed?

Background and Evidence

The landlord's undisputed evidence is as follows. The rental unit is a room in a multi-unit building which operates as an overflow for an adjacent hotel. On September 30, 2014, the tenant approached the landlord about renting a room. The parties agreed that the tenant would pay \$23.333 per night for the room. At the tenant's request, the landlord filled out a Shelter Information form so the Ministry of Social Development (the "Ministry") could pay her rent for her. On that form, the landlord stated that rent was set at \$750.00 per month. He testified that he later reduced the rent to \$700.00 per month as the tenant did not want access to satellite television so the landlord disconnected that service. The landlord collected from the tenant the sum of \$350.00 which he called a "confirmation of booking" which operates in the same way as a security deposit. The landlord anticipated that the tenant would stay for at least several months.

The landlord testified that the tenant paid a total of \$675.00 which represents payments of \$375.00 on September 29, \$100.00 on October 7 and \$200.00 on November 18. The

landlord accepted the last payment for use and occupancy only. Because \$350.00 was credited toward the “confirmation of booking”, the tenant paid just \$325.00 toward rent.

On October 23, 2014, the landlord served the tenant with a 10 day notice to end tenancy for unpaid rent (the “Notice”) by posting the notice to the door of the rental unit.

The landlord seeks an order of possession and a monetary order for unpaid rent for the month of October. However, the landlord also suggested that this issue falls outside the jurisdiction of the Act and is covered instead by the *Innkeepers Act*.

Analysis

First addressing the issue of jurisdiction, section 4 of the Act excludes jurisdiction over living accommodation occupied as vacation or travel accommodation. It is clear that the landlord knew the tenant was occupying the unit not as vacation or travel accommodation but somewhat permanently. The landlord filled out a shelter information form so the tenant’s rent could be paid by the Ministry and clearly both parties anticipated that this tenancy would last for some period of time. Further, I find that the fact that the landlord collected the “confirmation of booking” deposit suggests that he anticipated a longer term tenancy which was more than merely vacation or travel accommodation. I find that this tenancy falls within the jurisdiction of the Act.

I find that the parties agreed that the rent was \$700.00 per month because satellite TV was disconnected. The tenant was obligated to pay that amount in rent for the month of October and I find that the tenant failed to pay the full amount of rent. I find that she paid just \$325.00 toward her rent and remains \$375.00 in arrears.

I find that the tenant received the Notice on October 23. She did not dispute the Notice and did not pay the arrears within 5 days of receipt and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. I find that the landlord is entitled to an order of possession and I grant him that order, which must be served on the tenant. If the tenant fails to comply with the order, it may be filed in the Supreme Court and enforced as an order of that Court.

I find that the tenant still owes the landlord \$375.00 for rent for October and I award the landlord that sum. I further find that as the landlord has been successful in his application, he should recover the \$50.00 filing fee paid to bring his application and I award him that sum for a total award of \$425.00. I grant the landlord a monetary order under section 67 for \$425.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted an order of possession and a monetary order for \$425.00.

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 19, 2014

Residential Tenancy Branch

