



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, FF (Landlord's Application)
CNR, MNDC (Tenant's Application)

Introduction

This hearing dealt with cross applications. In the Landlords' Application for Dispute Resolution they sought an Order of Possession based on unpaid rent, a Monetary Order for unpaid rent, and to recover the filing fee for the Application. In the Tenant's Application, she sought an order cancelling the Notice to End Tenancy for unpaid rent or utilities and a Monetary Order.

Only the Landlords appeared at the hearing. S.K. gave affirmed testimony on behalf of both Landlords and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Landlord testified she personally served the Tenant with the Notice of Hearing and their Application on March 2, 2015; accordingly, I find the Tenant was duly served as of March 2, 2015.

The Tenant's application as set to be heard at the same time as the Landlords'. As the Tenant did not appear, I dismiss her application in its entirety without leave to reapply.

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 Landlord testified as to the terms of the tenancy as follows: the tenancy began July 1, 2014; monthly rent was payable in the amount of \$600.00 and was payable on the 1st of the month.

The Tenant failed to pay rent for the month of February 2015. The Landlord issued a 10 day Notice to End Tenancy for non-payment of rent on February 20, 2015 indicating the amount of \$600.00 was due as of February 1, 2015 (the "Notice").

Based on the testimony of S.K., I find that the Tenant was personally served with the Notice on February 20, 2015.

The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days of service, namely, February 25, 2015. 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 Landlord confirmed that the Tenant also failed to pay rent for March 2015.

Analysis

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

The Tenant has not paid the outstanding rent and did not attend apply to dispute the Notice 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.

Under section 26 of the Act, the Tenant must not withhold rent, even if the Landlord is in breach of the tenancy agreement or the Act, unless the Tenant has some authority under the Act to not pay rent. In this situation the Tenant had no authority under the Act to not pay rent.

I find that the Landlord is entitled to an order of possession effective **two days** after service on the Tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

I find that the Landlord has established a total monetary claim of \$1,250.00 comprised of rent for February 2015 in the amount of \$600.00, rent for March 2015 in the amount of \$600.00 and 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 attend the hearing to dispute the Notice to End Tenancy. The Tenant's Application is dismissed without leave to reapply. Further, 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 \$1,250.00.

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: March 25, 2015

Residential Tenancy Branch

