



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ROCKWELL MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes mnr, opr, ff

Introduction

The landlord has applied for an Order of Possession and a Monetary Order.

I accept that the tenant was properly served with the Application for Dispute resolution hearing package by way of registered mail.

Issues to Be Decided

- Is the Notice to End Tenancy served upon the tenant effective to end this tenancy, and entitle the landlord to an Order of Possession?
- Is there rental money payable to the landlord?
- Has the tenancy been reinstated?

Background and Evidence

This tenancy began on October 1, 2001. Rent is due on the 1st day of each month in the amount of \$983.00. A security deposit of \$395.00 was paid. The landlord served the tenant on March 6, 2015 with a 10-Day Notice to End Tenancy, after not receiving full rent for the month of March. The tenant did not pay the rental arrears or apply for dispute resolution within the required five days of receiving the Notice to End Tenancy. A subsequent payment of the arrears of \$375.00 was made on March 18, 2015. April rent was fully paid. The March arrears and the April rent were specifically received by the landlord on an occupancy only basis.

Analysis

By receipting the arrears and subsequent rent on an occupation basis, I find that such rent was not accepted as a reinstatement of the tenancy. In the absence of the required rental payment, or a dispute of the notice within the 5 day period set out in the Notice, the tenant is conclusively presumed to have accepted the end of the tenancy agreement on the effective date of the Notice, by virtue of section 46(5)(a) of the Residential Tenancy Act, as extended to April 30, 2015 by virtue of the occupation agreement. The landlord has therefore established a right to possession.

The landlord is entitled to recover their filing fee from the tenant.

Conclusion

Pursuant to Section 55(2)(b) of the Residential Tenancy Act, I issue an Order of Possession effective on the 30th day of April, 2015. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court for enforcement.

The landlord is entitled to an award of \$50.00, representing the recovery of the \$50.00 filing fee.

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: April 24, 2015

Residential Tenancy Branch

