



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing was convened by way of conference call in repose to the landlord's application for an Order of Possession for unpaid rent; for a Monetary Order for unpaid rent; and to recover the filing fee from the tenant for the cost of this application.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*; served by registered mail on April 24, 2015. Canada Post tracking numbers were provided by the landlord in documentary evidence. The tenant was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord's agent appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Is the landlord entitled to an Order of Possession due to unpaid rent?
- Is the landlord entitled to a Monetary Order to recover unpaid rent?

Background and Evidence

The landlord's agent testified that this month to month tenancy started on August 01, 2013. Rent for this unit was \$800.00 per month and was increased by a legal rent increase notice to \$817.00 from February 01, 2015. Rent is due on the 1st of each month.

The landlord's agent testified that the tenant failed to pay the rent due for April, 2015, leaving an unpaid balance of \$817.00. The landlord issued a 10 Day Notice to End Tenancy (the Notice) for unpaid rent on April 02, 2015. This was served by registered mail to the tenant on that date and was deemed served five days later. The Notice states that the tenant owes rent of \$817.00 which was due on April 01, 2015. The tenant had five days to either pay the outstanding rent or apply for Dispute Resolution or the tenancy would end on April 17, 2015. The tenant did not pay the outstanding rent or dispute the Notice within five days. Since that time the tenant has failed to pay rent for May and June 2015. The total amount of unpaid rent is now \$2,451.00. the landlord's agent orally requested to amend the application to include the unpaid rent for May and June, 2015.

The landlord's agent requested an Order of Possession to take effect as soon as possible; a Monetary Order to recover the unpaid rent of \$2,451.00 and the filing fee of \$50.00.

Analysis

Section 26 of the *Residential Tenancy Act (Act)* states: *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

Consequently, as the tenant has failed to attend the hearing to dispute the landlord's claim I find from the documentary evidence and testimony of the landlord's agent that the tenant has failed to pay rent for April, May and June, 2015, and the landlord is entitled to recover these rent arrears. I have allowed the landlord to amend their application to include the unpaid rent for May and June, 2015 as the tenant failed to vacate the rental unit by the effective date of the Notice and would be aware that rent should be paid on the 1st of each month. Consequently, the landlord will receive a Monetary Order to the sum of **\$2,451.00** pursuant to s. 67 of the *Act*.

I accept that the tenant was served the 10 Day Notice to End Tenancy for unpaid rent, pursuant to section 88 of the *Residential Tenancy Act*. The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay the outstanding rent within five days nor apply to dispute the Notice within five days.

Based on the foregoing, I find that the tenant is conclusively presumed, under section 46(5) of the *Act*, to have accepted that the tenancy ended on the effective date of the Notice and grant the landlord an Order of Possession pursuant to s. 55 of the *Act*. The landlord is entitled to recover the **\$50.00** filing fee from the tenant, pursuant to s. 72(1) of the *Act*.

Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$2,501.00** comprised of unpaid rent and the filing fee. The Order must be served on the Respondent. If the Respondent fails to comply with the Order, the Order is enforceable through the Provincial Court as an Order of that Court.

I HEREBY ISSUE an Order of Possession in favour of the landlord effective **two days** after service upon the Respondent. This Order must be served on the Respondent. If

the Respondent fails to comply with this Order, the Order may be filed in the Supreme Court and enforced as an Order of that Court.

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: June 09, 2015

Residential Tenancy Branch

