



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Raamco International Properties Canadian
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FF, MNDC, MNR, MNSD, OPR

Introduction

This is an application brought by the Landlord(s) requesting an Order of Possession, based on a Notice to End Tenancy for nonpayment of rent, requesting a monetary order in the amount of \$4525.00, and requesting recovery of the \$50.00 filing fee.

The applicant(s) testified that the respondent(s) were served with notice of the hearing by registered mail that was mailed on July 2, 2015 however the respondent(s) did not join the conference call that was set up for the hearing.

Pursuant to section 90 of the Residential Tenancy Act, documents sent by registered mail are deemed served five days after mailing and therefore it is my finding that the respondent(s) have been properly served with notice of the hearing and I therefore conducted the hearing in the respondent's absence.

The applicant was affirmed.

Issue(s) to be Decided

Does the landlord have the right to an Order of Possession?

Has the landlord established monetary claim against the respondent, and if so in what amount?

Background and Evidence

This tenancy began on October 17, 2014 with a monthly rent of \$1400.00 due on the first of each month.

The landlord testified that the tenants had failed to pay the June 2015 rent and therefore on June 19, 2015 the tenants were served with a 10 day Notice to End Tenancy for nonpayment of rent.

The landlord further testified that the tenants did not pay the outstanding rent within the five day grace period, however the full outstanding rent was eventually paid but a receipt was issued for use and occupancy only.

The landlord further stated that all rent is up to date, however all receipts have been issued for use and occupancy only.

The landlord stated that they still want this tenancy ended; however they are willing to allow the tenants to stay to the end of September 2015 and are requesting an Order of Possession for that date.

The landlord further testified that the only money they are claiming this time is the \$25.00 late fee, and the filing fee for today's hearing.

Analysis

It is my finding that the landlord has established that the tenants were properly served with a 10 day Notice to End Tenancy, which was posted on their door on June 19, 2015 and therefore is deemed served on June 22, 2015.

Further it is also my finding that the tenants failed to pay the outstanding rent within the five day grace period, and failed to file any dispute of the Notice to End Tenancy.

Section 46 of the Residential Tenancy Act states:

- 46** (1) A landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice.
- (2) A notice under this section must comply with section 52 *[form and content of notice to end tenancy]*.
- (3) A notice under this section has no effect if the amount of rent that is unpaid is an amount the tenant is permitted under this Act to deduct from rent.
- (4) Within 5 days after receiving a notice under this section, the tenant may
- (a) pay the overdue rent, in which case the notice has no effect, or

(b) dispute the notice by making an application for dispute resolution.

(5) If a tenant who has received a notice under this section does not pay the rent or make an application for dispute resolution in accordance with subsection (4), the tenant

(a) is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and

(b) must vacate the rental unit to which the notice relates by that date.

Therefore in this case the tenants are conclusively presumed to have accepted the end of the tenancy, and therefore I allow the landlords request for an Order of Possession; however since the landlords are willing to allow the tenants to stay to the end of September, I will issue that Order of Possession for September 30, 2015. The tenants are still required to pay rent for the month of September 2015.

It is also my finding that the landlord has shown that the tenancy agreement requires the tenants to pay a \$25.00 late fee and I therefore also allow the claim for that \$25 fee.

I also allow the request for recovery of the \$50.00 filing fee.

Conclusion

I have issued an Order of Possession for 1:00 PM on September 30, 2015.

I have issued a monetary order in the amount of \$75.00.

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: August 27, 2015

Residential Tenancy Branch

