



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Lu'ma Native Housing Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord for an Order of Possession and a monetary order for unpaid rent or utilities and to recover the filing fee from the tenant for the cost of the application.

An agent for the landlord company attended the call, gave affirmed testimony, and provided evidentiary material in advance of the hearing. However, despite being served with the Landlord Application for Dispute Resolution and notice of this hearing by registered mail on June 20, 2015, no one for either of the tenants attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and the only participant who joined the call was the landlord's agent. The landlord's agent testified that the tenants were individually served on that date and in that manner and was given an opportunity to provide proof of such service by facsimile after the hearing had concluded. The landlord has provided copies of both sides of 2 separate Registered Domestic Customer Receipts addressed to the tenants and stamped that date by Canada Post, and I am satisfied that both tenants have been served in accordance with the *Residential Tenancy Act*.

All evidence and the testimony of the landlord is considered in this Decision.

Issue(s) to be Decided

- Is the landlord entitled under the *Residential Tenancy Act* to an Order of Possession for unpaid rent?
- Has the landlord established a monetary claim as against the tenants for unpaid rent?

Background and Evidence

The landlord's agent testified that this month-to-month tenancy began on April 1, 2007 and the tenants still reside in the rental unit. Rent in the amount of \$1,009.00 per month is currently payable in advance on the 1st day of each month. On March 14, 2007 the landlord collected a security deposit from the tenants in the amount of \$433.00 which is still held in trust by the landlord, and no pet damage deposit was collected. A copy of the tenancy agreement has been provided.

The landlord's agent further testified that the tenants fell into arrears of rent and the landlord caused the tenants to be served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on June 5, 2015 by posting it to the door of the rental unit. A copy of page 1 only of the 2-page notice has been provided and it is dated June 5, 2015 and contains an expected date of vacancy of June 15, 2015 for unpaid rent in the amount of \$3,179.00 that was due on June 1, 2015.

The landlord's agent also testified that since the notice was issued, the tenants made the following payments:

- June 19, 2015 - \$1,009.00
- July 3, 2015 - \$1,009.00
- July 17, 2015 - \$1009.00; and
- July 31, 2015 - \$1,009.00.

Receipts were provided to the tenants for all payments and the receipts were marked, "For Use and Occupancy Only." The tenants are now in arrears the sum of \$1,161.00, and the landlord seeks a monetary order for that amount as well as recovery of the \$50.00 filing fee.

At the conclusion of the hearing the landlord's agent was given the opportunity to provide both pages of the 2-page notice to end the tenancy, which has been received.

Analysis

The *Residential Tenancy Act* states that once a tenant is served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, the tenant has 5 days to pay the rent in full or dispute the notice by making an application for dispute resolution. If the tenant does neither, the tenant is conclusively presumed to have accepted the end of the tenancy and must move out of the rental unit. In this case, I have reviewed the notice and I find that it is in the approved form and contains information required by the *Act*. The landlord's agent testified that the landlord has not been served by the tenant with an

application for dispute resolution disputing the notice, and I have no such application before me. Therefore, I find that the tenants are conclusively presumed to have accepted the end of the tenancy and the landlord is entitled to an Order of Possession. Since the effective date of vacancy contained in the notice has already passed, I order that the Order of Possession be effective on 2 days notice to the tenants.

With respect to the landlord's claim for a monetary order for unpaid rent, I accept the testimony of the landlord's agent that the tenants are currently in arrears the sum of \$1,161.00, and that the amount contained in the notice to end tenancy of \$3,179.00, less the payments made since its issuance totaling \$4,036.00, plus rent owing since its issuance is consistent with the landlord's claim, and the landlord is entitled to a monetary order in the amount of \$1,161.00.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$50.00 filing fee.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord on 2 days notice to the tenants.

I further grant a monetary order in favour of the landlord as against the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,211.00.

This order is final and binding and may be enforced.

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 20, 2015

Residential Tenancy Branch

