



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, FF

Introduction

This hearing was convened by way of conference call in response to the landlord's application for an Order of Possession for unpaid rent and utilities; for a Monetary Order for unpaid rent and utilities; for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; 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 in person to the tenant's adult son on July 05, 2015.

The landlord 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 testified that this fixed term tenancy started on February 21, 2015 for a year. Rent for this unit was \$450.00 per month due on the 1st of each month.

The landlord testified that the tenant failed to pay all the rent due for June, 2015, leaving an unpaid balance of \$75.00. The landlord issued a 10 Day Notice to End Tenancy (the Notice) for unpaid rent on June 08, 2015. This was served in person to the tenant. The Notice states that the tenant owes rent of \$250.00 due on June 01, 2015; however, the landlord testified this is an error and should read \$75.00. The tenant also owes \$28.65 for unpaid cable; however the landlord has withdrawn this from her claim. The tenant had five days to either pay the outstanding rent or apply for Dispute Resolution or the tenancy would end on June 18, 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 July and August 2015.

The landlord testified that she is unsure if the tenant has vacated the rental unit as there are still some of the tenant's belongings left outside the unit. The landlord has not yet checked inside the unit. The tenant did return a key to the unit on August 18, 2015. Consequently, the landlord seeks to recover \$75.00 in unpaid rent for June, \$450.00 for July and \$261.00 for August in the event the tenant did vacate August 18, 2015. The total amount of unpaid rent requested is \$786.00.

The landlord requested an Order of Possession to take effect as soon as possible in the event the tenant has not vacated; a Monetary Order to recover the unpaid rent of \$786.00 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 am satisfied with the documentary evidence and testimony of the landlord that the tenant has failed to pay rent for June, July and August, 2015. The landlord is entitled to recover the rent arrears as requested. I have allowed the landlord to amend their application to include the unpaid rent for July and August, 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 **\$786.00** 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 amended monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$836.00** 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.

If the tenant has vacated the rental unit the landlord may discard the Order of Possession.

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: September 01, 2015

Residential Tenancy Branch

