



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 55 POWELL STREET HOLDINGS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPR, MNR, CNR

Introduction

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for an order of possession and for unpaid rent. The tenant applied for an order to cancel a notice to end tenancy.

The landlord made application on August 18, 2015 by direct request, pursuant to a notice to end tenancy dated August 05, 2015. This hearing was scheduled to be an ex parte hearing. The Arbitrator designated to process the landlord's application found that the tenant had also made application to dispute a prior notice to end tenancy dated July 02, 2015. This was scheduled to be heard by conference call on September 09, 2015. The Arbitrator made an interim decision to have both applications heard together.

The landlord had served the tenant with a notice of hearing on August 20, 2015, by registered mail and provided a tracking number. The Residential Tenancy Branch mailed a copy of the interim decision to the tenant. Despite having been served the notice of hearing and having made application for dispute resolution, the tenant did not attend the hearing and therefore his application is dismissed. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord entitled to an order of possession and to a monetary order for rent?

Background and Evidence

The tenancy started on June 07, 2015. A copy of the tenancy agreement was filed into evidence. The monthly rent is \$7000.00 due on the first of each month. The landlord testified that the tenant failed to pay rent for July 2015 and on July 02, 2015; the landlord served the tenant with a ten day notice to end tenancy, in person. The tenant

disputed the notice on July 08, 2015 which is not within the legislated time frame of five days and continued to occupy the rental unit without paying rent.

On August 05, 2015, the landlord served a second notice to end tenancy. At the time of the hearing the tenant owed the landlord \$700.00 for July, \$700.00 for August and \$700.00 for September 2015 for a total of \$2,100.00 in unpaid rent. The landlord is applying for an order of possession effective two days after service on the tenant and a monetary order in the amount of \$2,100.00 for unpaid rent.

Analysis

Based on the undisputed sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy for unpaid rent, on July 02, 2015 and did not pay rent within five days of receiving the notice to end tenancy nor did the tenant make application, pursuant to Section 46 to set aside the notice to end a residential tenancy, and the time to do so has expired.

In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. Pursuant to section 55(2) I am issuing a formal order of possession effective two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement. I find that the landlord is entitled to \$2,100.00 for unpaid rent. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for this amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord an order of possession effective **two days after service** on the tenant and a monetary order in the amount of **\$2,100.00**. The tenant's application is dismissed.

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 09, 2015

Residential Tenancy Branch