



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, 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; 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 September 18, 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 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*. The landlord was given the opportunity to provide additional evidence that was not received by the arbitrator prior to the hearing. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

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

Background and Evidence

The landlord testified that this tenancy started approximately on May 01, 2013. Rent for this unit is \$1,300.00 per month, and is due on the first day of each month. The tenancy started as a fixed term for the first year and thereafter continued on a month to month basis.

The landlord testified that the tenant failed to pay all the rent due in January, 2015. The tenant paid \$1,000.00 leaving an unpaid balance of \$300.00. The tenant paid \$500.00 in February leaving an unpaid balance of \$800.00. No rent has been received from the tenant since that time. On June 01, 2015 the tenant owed rent of \$6,300.00. The landlord testified that a 10 Day Notice to End Tenancy for unpaid rent (the Notice) was served upon the tenant on June 12, 2015 in person to an adult who apparently lives with the tenant. The landlord has provided a proof of service document duly witnessed showing service of the 10 Day Notice took place on that date. The landlord was given the opportunity to provide a copy of the 10 Day Notice in evidence after the hearing had ended, but instead provided another copy of the proof of service document already in evidence.

Analysis

The landlord has failed to provide a copy of the 10 Day Notice in documentary evidence. Without sight of this notice I am unable to determine if a legal and valid Notice was served upon the tenant as declared by the landlord and that the tenant was given the opportunity to pay rent within five days indicated on a valid and legal Notice.

Consequently I am unable to make a decision on this matter today.

Conclusion

The landlord's application is dismissed with leave to reapply.

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: October 30, 2015

Residential Tenancy Branch

