



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes mnr, opr, ff

Introduction

The landlord has applied for dispute resolution of a dispute in the tenancy at the above noted address, and requests an Order of Possession and a Monetary Order for unpaid rent.

Both parties attended the hearing, and I accept that the tenant was properly served with the landlord's Application for Dispute resolution hearing package, as well as the 10 Day Notice to End Tenancy, dated August 1, 2015.

Issues to Be Decided

- Is the 10 day Notice to End Tenancy effective to end this tenancy and entitle the landlord to an Order of Possession?
- Is the landlord entitled to a Monetary Order for unpaid rent money due and payable by the tenant to the landlord?

Background and Evidence

The tenant rents a basement suite in the landlord's home, and his tenancy began about 7 years ago. Rent is due on the 1st day of each month in the amount of \$700.00. The tenant has not been receiving his pension cheques, and for a lengthy period has not been paying his rent. The landlord eventually served the tenant with a 10 Day Notice to End Tenancy on August 1, 2015, by which date the amount of rent in arrears was \$39,200.00. No rent has been paid since that date, and the tenant did not apply for dispute resolution to dispute the Notice to End Tenancy. Including rent for October, the total now owing to the landlord is \$40,600.00. The landlord seeks to recover \$25,000.00 of this sum.

The tenant requests that he have another 14 to 21 days before he moves out. The landlord does not object.

Analysis

In the absence of the required payment of the full rental arrears, or of a dispute of the notice within the 5 day period set out in the Notice, the tenant is conclusively presumed to have accepted the end of the tenancy agreement on the effective date of the Notice, by virtue of section 46(5)(a) of the Residential Tenancy Act. As the effective date of the

Notice has passed, the landlord has established a right to possession. Allowing the tenant 21 days from now to vacate, the Order of Possession is made effective November 15, 2015.

The arrears owed exceeds the \$25,000.00 monetary jurisdiction of the Residential Tenancy Act, and the landlord abandons any claim above that sum. The landlord is therefore awarded \$25,000.00 for the rental arrears, plus \$100.00 representing the recovery of his filing fee.

Conclusion

Pursuant to Section 55(2)(b) of the Residential Tenancy Act, I issue an Order of Possession effective November 15, 2015. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court for enforcement.

The landlord is issued a Monetary Order of \$25,100.00, representing the awarded rental arrears and the filing fee.

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 22, 2015

Residential Tenancy Branch

