



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HAROB HOLDINGS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes mnr, opc, opr, mnr, cnr, cnc, ff

Introduction

The tenant applies for an order to cancel three Notices to end the tenancy. The landlord applies for an Order of Possession, a Monetary Order for unpaid rent, and to recover the filing fee of the application.

The tenant failed to attend the hearing. I accept that the tenant was aware of the hearing, given that he had filed the initial claim. His claim also confirms that he received the subject Notices to end the tenancy. I also find that the tenant was served by the landlord with the notice of this hearing and landlord's claim, by way of registered mail bearing tracking number RN086168266CA. Such service satisfies the requirements of Section 89 of the Residential Tenancy Act, with receipt deemed to have occurred pursuant to Section 90.

Issues to Be Decided

- Are any of the Notices to End Tenancy served upon the tenant effective to end this tenancy, and entitle the landlord to an Order of Possession?
- Is there rent money due and payable by the tenant to the landlord?
- Is the landlord entitled to recover his filing fee from the tenant?

Background and Evidence

This one year, fixed-term tenancy began July 1, 2015. Rent is due in advance on the first day of every month, in the amount of \$1,150.00. A security deposit of \$575.00 was paid. Initially the tenant and his spouse both contributed to the monthly rent, but the spouse left at the end of August after being assaulted by the tenant, and after he violated a subsequent restraining order. The landlord did not receive the tenant's half of September's rent, and served the tenant with a 10 Day Notice to End Tenancy on September 29. The tenant alleged he had paid the rent, and produced a receipt allegedly from a female property manager who had been terminated on August 27. The landlord determined that the receipt was fraudulent. Later the tenant produced another receipt which the landlord determined was also fraudulent. No further rent was received by the landlord from the tenant, and subsequent Notices to End Tenancy were issued.

Analysis

A tenant must pay rent when it is due under the tenancy agreement, and the tenant in this case was required to pay his portion of September's rent for March, on or before the first day of

September. I accept the landlord's testimony that this rent was not paid, and that no further rent was paid, but that the tenant remains in possession of the premises.

Upon receipt of the 10 Day Notice to End Tenancy on September 29, at notice, the tenant should have paid the rental arrears or filed a dispute within the required 5 day period. The tenant did not pay the rent, and his dispute was filed after the 5 day period. His failure to attend the hearing, coupled with these facts result in the dismissal of his claim to have the notice cancelled. The 10 day notice of September 29 is therefore found effective to end this tenancy, and the landlord has established a right to possession on the basis of that notice, and pursuant to section 47(5)(b) of the Residential Tenancy Act.

Although rent is also lost for November and December, the landlord's claim seeks only \$1,725.00, representing recovery of lost rent for September and October. I find that the tenant is liable for this lost rental income, and order same to be paid to the landlord. The landlord may also recover his \$50.00 filing fee from the tenant. This results in a total sum of \$1,775.00 payable by the tenant to the landlord. The landlord remains at liberty to file a new claim for any further losses, include losses of rent.

Given this outcome, the issues associated with the subsequent notices to end the tenancy become moot, and I need not address those in this ruling.

Conclusion

Pursuant to Section 55 of the Residential Tenancy Act, I issue an Order of Possession, effective 48 hours following service upon the tenant. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court for enforcement.

I further order the tenant pay to the landlord the sum owing of \$1,775.00.

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: December 04, 2015

Residential Tenancy Branch

