



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR OP

Introduction

This hearing dealt with an application by tenant for an order setting aside the landlord's 10 Day Notice to End Tenancy dated November 3, 2015. The landlord made a verbal request at the hearing for an order of possession based on the November 3rd Notice. The hearing was conducted by conference call. The landlord called in and participated in the hearing. The tenant did not appear although this was the hearing scheduled in response to the tenant's own application. The phone line remained open for ten minutes while the landlord and I waited for the tenant's arrival but the tenant did not call in. Accordingly, the tenant's application is dismissed.

As stated above, the landlord requested an order of possession so the hearing proceeded to deal with this application.

Issues

Is the party entitled to the requested orders?

Background and Evidence

This tenancy began approximately three years ago. The rent is \$1425.00 due in advance on the first day of each month. The tenant did not pay rent for October or November when it was due. On November 3, 2015 the landlord served the tenant with a 10 Day Notice to End Tenancy for non-payment of rent showing that the arrears in rent was \$2525.00. The building manager served the tenant by giving the Notice to the tenant's 18 year old son. The tenant was present when the Notice was given to the son. The tenant apparently asked the building manager to just give it to him because she was just getting out of the shower. The tenant then disputed the Notice on November 9, 2015. Currently, the rent is in arrears by \$1800.00. The tenant made partial payments of rent as follows: November 9, 2015 - \$1050.00; December 9, 2015 -

\$1425.00; and January 7, 2016 - \$1100.00. The current amount of outstanding rent is \$1800.00.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. In the present case, the tenant did file an application to dispute the Notice but did not pay the full amount of rent indicated on the Notice and also failed to attend the hearing for her application.

As a result, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice which was November 13, 2015.

Conclusion

Based on the above background, evidence and analysis I find that the landlord is entitled to an order of possession effective two days after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

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: January 11, 2016

Residential Tenancy Branch

