



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DOGWOOD MANOR APT.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The landlord's agents (the landlord) attended the hearing by conference call and gave undisputed affirmed testimony. The tenant did not attend. The landlord confirmed receiving the tenant's notice of hearing package on January 18, 2016 in person and the submitted documentary evidence (10 Day Notice dated January 11, 2016). I accept the undisputed affirmed testimony of the landlord and find that the landlord was properly served with the notice of hearing package and the submitted documentary evidence of the tenant as per sections 88 and 89 of the Act.

The tenant did not attend this hearing, although I waited until 0921 in order to enable the tenant to connect with this teleconference hearing scheduled for 0900. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

As the tenant has failed to attend the conference call hearing, the tenant's application for dispute is dismissed. The landlord requested an order of possession to end the tenancy for unpaid rent.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The landlord stated that the tenant was served with the 10 Day Notice dated January 11, 2016 by posting it to the rental unit door. The 10 Day Notice stated that the tenant failed to pay rent of \$895.00 that was due on January 1, 2016 and displays an effective end of tenancy date of January 21, 2016.

The tenant provided written details which state:

On Monday Jan the 4th I talked to property owner letting them know I was going to be late on rent they said that was fine then they served me a 5 day notice on Jan 11. I spoke to them again saying I would pay Jan 15 but I paid earlier on Jan 13 then they said she would bring my rent receipt down to me but did not and now she is saying I did not pay at all and I have to be out today Jan 15.

The landlord provided undisputed testimony stating that since the 10 Day Notice dated January 11, 2016 was served by posting it to the rental unit door on January 11, 2016, the tenant has failed to pay any rent as of the date of this hearing.

Analysis

Pursuant to section 46 of the Act, a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end tenancy effective on a date that is not earlier than ten days after the date the tenant receives the notice.

I accept the undisputed affirmed testimony of the landlord and find that the tenant failed to pay the outstanding rent within five days of receiving the 10 Day Notice. The tenant has failed to attend to pursue her application filed leading to her application being dismissed without leave to reapply. As such, the tenant has accepted that the tenancy ended on January 21, 2016. The tenant still occupies the rental unit without paying any rent. I find that the landlord is entitled to a two-day order of possession.

Conclusion

The tenant's application is dismissed without leave to reapply.
The landlord is granted an order of possession.

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: March 02, 2016

Residential Tenancy Branch

