



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

VALLEY REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Introduction

On March 15, 2016, the Landlord submitted an Application for Dispute Resolution for an order of possession, and for a monetary order for unpaid rent or utilities. The matter was set for a conference call hearing at 9:00 a.m. on this date. The Landlord attended the teleconference hearing; however, the Tenant did not. The Landlord testified that she served the Tenant with the Application for Dispute Resolution and Notice of Hearing, by registered mail sent on April 11, 2016. A Canada Post tracking number was provided as evidence of service. I find that the tenant has been duly served in accordance with the Act.

The Landlord was provided the opportunity to present her evidence orally and in written and documentary form, and to make submissions at the hearing.

Issues 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 served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities ("the Notice") on the Tenant on January 11, 2016.

The tenancy agreement provided by the Landlord indicates that the length of the tenancy was a 1 year fixed term that began on August 1, 2015. Rent in the amount of \$1,000.00 was payable on the first of each month.

The Landlord testified that the Tenant was served with the Notice by posting it on his door on January 11, 2016. The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the tenant had five days to dispute the Notice. The Notice states that the Tenant has failed to pay rent in the amount of \$1,000.00.

There is no evidence before me that that the Tenant made an application to dispute the Notice.

The Landlord testified that the Tenant did not pay all rent owed for January 2016. The Landlord testified that the Tenant paid \$600.00 towards January's rent on March 1, 2016, and that the amount of \$400.00 is still owing. The Landlord also testified that the Tenant has not paid any rent for the months of February 2016, March 2016, and April 2016. The Landlord seeks an order of possession and a monetary order for unpaid rent in the amount of \$3,400.00.

Analysis

Based on the evidence before me, and the testimony of the Landlord, and on a balance of probabilities, I find that the Tenant has not paid the outstanding rent within five days of receiving the Notice, and did not apply to dispute the Notice, and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the Landlord is entitled to an order of possession, pursuant to section 55 of the Act, 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 is cautioned that costs of such enforcement are recoverable from the Tenant.

I find that the tenant owes \$400.00 for January rent. I also find that the Tenant has not paid rent for the months of February 2016, March 2016, and April 2016, and the Landlord will suffer a loss of rent for these months. The Tenant is aware that he is required to pay rent each month and therefore, pursuant to section 64 of the Act, I allow the claim to be amended to include three additional months of rent in the amount of \$3,000.00

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I find that the Landlord has established a total monetary claim of \$3,500.00 comprised of \$3,400.00 in unpaid rent for the above mentioned dates and the \$100.00 fee paid by the landlord for this hearing. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

Conclusion

The Tenant failed to pay rent and did not file to dispute the Notice. The Tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the Notice.

The Landlord is granted an order of possession and I grant a monetary order for the unpaid rent and the cost of the filing fee in the amount of \$3,500.00.

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: April 22, 2016

Residential Tenancy Branch