



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, FF
 MT, CNR, FF

Introduction

This hearing was convened by way of conference call concerning applications made by the landlord and by the tenant. The landlord has applied for an Order of Possession and a monetary order for unpaid rent or utilities; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and to recover the filing fee from the tenant for the cost of the application. The tenant has applied for more time than prescribed to dispute a notice to end the tenancy, for an order cancelling a notice to end the tenancy for unpaid rent or utilities, and to recover the filing fee from the landlord.

The landlord attended the hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, despite making an application for dispute resolution that was scheduled to be heard at 9:30 a.m. this date together with the landlord's application, no one for the tenant attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony, and the only participant who joined the call was the landlord. Therefore, I dismiss the tenant's application in its entirety without leave to reapply.

The landlord testified that the Landlord's Application for Dispute Resolution and notice of this hearing was served to the tenant by posting the documents to the door of the rental unit on May 18, 2016. The *Residential Tenancy Act* does not permit such documents to be served in that manner where the applicant seeks a monetary order. Therefore, I dismiss the landlord's application for a monetary order for unpaid rent or utilities and the application for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement with leave to reapply.

The hearing commenced in the absence of the tenant with respect to the landlord's application for an Order of Possession of the rental unit for unpaid rent or utilities.

Issue(s) to be Decided

- Is the landlord entitled under the *Residential Tenancy Act* to an Order of Possession for unpaid rent?

Background and Evidence

The landlord testified that this month-to-month tenancy began just over a year ago and believes the tenant is still residing in the rental unit. Rent in the amount of \$1,900.00 per month is payable on the 1st day of each month. No security deposit or pet damage deposit were collected by the landlord. The rental unit is a house that contains a separate suite which is also tenanted.

The landlord further testified that the tenant failed to pay rent when it was due for May, 2016 and on May 5, 2016 the landlord posted to the door of the rental unit a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, a copy of which has been provided. It is dated May 5, 2016 and contains an effective date of vacancy of May 14, 2016 for \$1,900.00 of unpaid rent that was due on May 1, 2016. No rent has been paid since the issuance of the notice, and the landlord seeks an Order of Possession.

Analysis

The *Residential Tenancy Act* states that where a landlord serves a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, the tenant has 5 days to pay the rent, in which case the notice is of no effect, or dispute the notice. If the tenant fails to do either, the tenant is conclusively presumed to have accepted the end of the tenancy and must move out of the rental unit by the effective date contained in the notice, which must be no less than 10 days after service. In this case, the tenant did not dispute the notice within the 5 days but filed an application for dispute resolution disputing the notice and seeking more time to dispute it. However, the tenant did not attend the hearing, and therefore, I find that the tenant is conclusively presumed to have accepted the end of the tenancy. I have reviewed the notice, and I find that it is in the approved form and contains information required by the *Act*, and I find that the landlord is entitled under the *Act* to an Order of Possession. Since the effective date of vacancy has passed, I grant the Order of Possession on 2 days notice to the tenant.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$100.00 filing fee, and I grant a monetary order in favour of the landlord for that amount.

Conclusion

For the reasons set out above, the tenant's application is hereby dismissed in its entirety without leave to reapply.

The landlord's application for a monetary order for unpaid rent or utilities is hereby dismissed with leave to reapply.

The landlord's application for a monetary order for money owed or compensation or damage or loss under the *Act*, regulation or tenancy agreement is hereby dismissed with leave to reapply.

I hereby grant an Order of Possession in favour of the landlord on 2 days notice to the tenant.

I hereby grant a monetary order in favour of the landlord as against the tenant pursuant to Sections 67 and 72 of the *Residential Tenancy Act* in the amount of \$100.00 as recovery of the filing fee.

These orders are final and binding and may be enforced.

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: June 14, 2016

Residential Tenancy Branch