# Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LFC LAMPSON HOSPITALITY INC
and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes        OPR

Introduction

On June 9, 2016, the Landlord submitted an Application for Dispute Resolution for an order of possession due to unpaid rent.  The matter was set for a conference call hearing.  Both parties attended the teleconference hearing.  The Tenant was assisted by an advocate.

The hearing process was explained and the participants were asked if they had any questions.  Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure.  However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

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

Background and Evidence

Both parties agree that the tenancy began in February 2008.  Rent in the amount of $600.00 is payable on the first of each month.

The Landlord testified that the Tenant failed to pay all the rent was due.

The Landlord served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated March 3, 2016, ("the Notice") on the Tenant on March 3, 2016.

The Landlord testified that the Tenant was served with the Notice by posting it on his door on March 3, 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 $900.00.  The Notice indicates the Tenant must move out of the rental unit by March 13, 2016.

The Tenant testified that he received the Notice upon returning home from the hospital.  The Tenant could not recall the date.  The Tenant testified that he did not dispute the Notice because the Notice is true.  He testified that he did not pay his rent in full.  The Tenant testified that he has a medical disability and is unable to work.

The Tenant testified that he has not participated in any previous hearings where an Arbitrator has allowed him to withhold rent, and he has not paid for emergency repairs that he is withholding from the rent.

The Landlord agreed to give the Tenant more time to vacate the rental unit if the Landlord is successful getting an order of possession.

Analysis

Based on the evidence before me, and the testimony of the parties, and on a balance of probabilities, I find that the Tenant did not pay 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.  However; the Landlord requested that the order of possession be effective on July 31, 2016, to provide the Tenant more time to move.  I grant the Landlord's request and I grant an order of possession effective no later than 1:00 pm on July 31, 2016.  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.

Conclusion

The Tenant failed to pay rent and did not apply 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 effective no later than 1:00 PM on July 31, 2016.

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: July 19, 2016

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Residential Tenancy Branch