



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, OPR; CNR

Introduction

This hearing addressed the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for unpaid rent, pursuant to section 67; and
- an order of possession for landlord's use, pursuant to section 55.

This hearing also addressed the tenant's cross application for:

- cancelation of the landlord's 10 day notice to end tenancy for unpaid rent ("10 Day Notice"), pursuant to section 46.

The tenant did not participate in the conference call hearing to present her claim; consequently the tenant's entire application is dismissed without leave to reapply.

The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that he served the tenant with the landlord's application for dispute resolution hearing package on June 16, 2016 by way of posting to the rental unit door where the tenant is residing. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's application on June 19, 2016, three days after its posting.

Section 89(1) of the *Act* does not allow for the service of an application for a monetary award by posting a notice on a tenant's door. As the landlord did not serve the tenant with a copy of the dispute resolution hearing package in accordance with section 89(1) of the *Act*, I dismiss the landlord's application to obtain a monetary order for unpaid rent.

Issue(s) to be Decided

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

Background and Evidence

The landlord testified that this tenancy began on March 15, 2016 on a fixed term basis. Rent in the amount of \$740.00 is payable on the first of each month. The tenant remitted \$370.00 for the security deposit at the start of the tenancy. The tenant continues to reside in the rental unit.

The landlord testified that the tenant was served with the landlord's 10 Day Notice, dated June 2, 2016, on the same date, by way of posting to the rental unit door where the tenant is residing. The landlord provided a signed, witness proof of service. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's 10 Day Notice on June 5, 2016, three days after its posting.

The 10 Day Notice for unpaid rent in the amount of \$740.00 due on June 1, 2016 indicates an effective move-out-date of June 6, 2016. The landlord claimed that the tenant has not paid any rent since the 10 Day Notice was issued.

Analysis

Section 46 of the *Act* provides that upon receipt of a notice to end tenancy for unpaid rent or utilities the tenant may, within five days, pay the overdue rent or dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch.

Section 55 of the *Act* establishes that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end tenancy, an order of possession must be granted to the landlord if, the notice to end tenancy complies in form and content and the tenant's application is dismissed or the landlord's notice is upheld. Section 52 of the *Act* provides that a notice to end tenancy from a landlord must be in writing and must be signed and dated by the landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form.

Based on the landlord's undisputed testimony, I find the tenant did not pay the overdue rent and further find the notice complies in form and content. The effective date of June 6, 2016 on the 10 Day Notice is corrected to June 15, 2016. As the tenant's application has been dismissed I find that the landlord is entitled to a two (2) Day order of possession, pursuant to section 55 of the Act.

Conclusion

The tenant's entire application is dismissed without leave to reapply.

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

The landlord's application for an order of possession is granted effective two (2) days after service on the tenant.

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 18, 2016

Residential Tenancy Branch