



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlords for an Order of Possession based on unpaid rent, a Monetary Order for unpaid rent, an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

Only the Landlords appeared at the hearing. The Landlord G.D. gave affirmed testimony and was provided the opportunity to present the Landlords' evidence orally and in written and documentary form, and to make submissions to me.

The Landlord, G.L. testified that she served personally the Tenant's roommate, M.C., with the Notice of Hearing and the Landlord's Application on August 8, 2016.

Pursuant to section 89 of the *Residential Tenancy Act*, I find that the Tenant was duly served with Notice of the proceeding as it relates to the Order of Possession and I accordingly proceeded with the Landlords' application for an Order of Possession. As service of the roommate is insufficient for the purpose of a Monetary Order pursuant to section 89(1) of the *Act*, I dismiss with leave to reapply the Landlords' application for monetary compensation from the Tenant.

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

Has the Tenant breached the Act or tenancy agreement, entitling the Landlord to an Order of Possession?

Background and Evidence

G.L. testified as to the terms of the tenancy as follows: the tenancy began June 15, 2016; monthly rent was payable in the amount of \$1,850.00 in addition to utilities; and the Tenant paid a security deposit in the amount of \$925.00.

G.L. stated that the Tenant failed to pay rent for the month of July 2016. In response, the Landlord issued a 10 day Notice to End Tenancy for non-payment of rent on July 19, 2016 indicating the amount of \$1,850.00 was due as of July 1, 2016 (the "Notice").

L.G. testified that the Tenant was served with the Notice on July 19, 2016 by posting to the rental unit door. Section 90 of the *Act* provides that documents served in this manner are deemed served three days later. Accordingly, I find pursuant to section 88 of the *Residential Tenancy Act*, that the Tenant was served with the Notice as of July 21, 2016.

The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days of service, namely, July 26, 2016. The Notice also explains the Tenant had five days from the date of service to dispute the Notice by filing an Application for Dispute Resolution.

L.G. testified that the Tenant did not pay the outstanding rent nor did he apply to dispute the Notice.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The Tenant has not paid the outstanding rent 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 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 advised that any enforcement costs incurred by the Landlord are recoverable from the Tenant.

As noted, I have dismissed, with leave to reapply, the Landlords' monetary claim.

Conclusion

The Tenant failed to pay rent and did not file to dispute the Notice to End Tenancy. The Tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy. Pursuant to section 55 of the *Residential Tenancy Act*, the Landlord is granted an Order of Possession.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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: September 01, 2016

Residential Tenancy Branch