



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNDC, FF

Introduction

The landlord applies for an order of possession pursuant to a ten day Notice to End Tenancy for unpaid rent dated August 2, 2016 and for a monetary award for unpaid rent and late fees.

At the hearing the landlord withdrew its claim for late fees. The tenant indicated she was in the process of moving out and the parties agreed that she would vacate by November 21, 2016 and that the landlord would have an order of possession for one o'clock p.m. on that day.

The landlord wished to amend its claim to include a claim for rent due for October and November 2016. The tenant objected. The amendment was refused. The landlord is free to make another application in that regard.

Both parties attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

Issue(s) to be Decided

Is the tenant in arrears of \$29.00 rent due September 1, 2016

Background and Evidence

The rental unit is a bachelor apartment. The tenancy started in September 2010. The current rent is \$1044.57 plus \$40.00 for parking. The landlord holds a \$437.50 security deposit.

Mr. S. for the landlord testifies that on May 10, 2016 a notice of rent increase was posted to the tenant's door. The notice purports to increase the tenant's rent by \$29.43 effective September 1, 2016.

The tenant says she did not get the notice and that either it was not posted to her door or someone had removed.

Mr. S. produces a record of the person posting rent increase notices that day indicating the notice was, in fact, posted. He says that 30 or 40 rent increase notices were posted in the apartment building that day and this tenant is the only one denying receipt. He says the notice was taped to the door by tape on its top and bottom.

Analysis

Section 88 and 90 of the *Residential Tenancy Act*, specify that a notice of this sort may be delivered on a tenant by posting it to her door and that a notice so posted is deemed to have been received the third day after posting.

That deeming provision is rebuttable. The testimony of the tenant simply claiming that it was not on her door is not, in these circumstances, sufficient evidence to rebut the statutory presumption. I find that the rent increase notice was duly delivered on her and that her rent was lawfully increased by \$29.43 effective September 1, 2016.

The landlord claims only \$29.00 of that amount and so I grant the landlord a monetary award for \$29.00.

The landlord applies for an order of possession but the evidence shows that the tenant paid the amount demanded in the ten day Notice on the same day or next day after the Notice was issued, thus invalidating the Notice.

In all the circumstances I award the landlord \$50.00 of its filing fee.

Conclusion

The landlord will have the order of possession agreed to.

The landlord is entitled to a total award of \$79.00 and, with its consent, I authorize it to deduct that amount from the security deposit it holds, in full satisfaction of the award.

This decision was rendered orally at hearing 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: November 17, 2016

Residential Tenancy Branch