



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

On December 20, 2016, the Landlord submitted an Application for Dispute Resolution for an order of possession, and for a monetary order for unpaid rent or utilities. The matter was set for a conference call hearing.

The Landlord attended the teleconference hearing; however, the Tenant did not. The Landlord testified that he served the Tenant with the Application for Dispute Resolution and Notice of Hearing, by posting the Notice of Hearing on the Tenant's door. I find that the Tenant has been duly served with the Notice of Hearing in accordance with section 89 and 90 of the Act.

The Landlord was provided the opportunity to present his evidence orally and in written and documentary form, and to make submissions at the hearing.

Issues to be Decided

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

Background and Evidence

The Landlord testified that he purchased the property in April 2016, and the tenant was already living in the rental unit. Rent in the amount of \$1,100.00 is to be paid by the first day of each month. The Landlord testified that he did not receive a security deposit from the Tenant.

The Landlord testified that the Tenant failed to pay the rent when it was due for November 2016.

The Landlord served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated November 28, 2016, ("the Notice") to the Tenant.

The Landlord testified that the Tenant was served with the Notice by posting it on the Tenant's door on November 28, 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 \$1,660.00 that was due November 1, 2016.

There is no evidence before me that that the Tenant made an application to dispute the Notice.

The Landlord testified that the Tenant did not pay any amount of rent within 5 days of receiving the 10 Day Notice. The Landlord testified that the Tenant has not paid him any rent money since the 10 Day Notice was issued.

The Landlord seeks an order of possession and a monetary order for unpaid rent in the amount of \$3,860.00.

Analysis

Based on the evidence before me, and the testimony of the Landlord, and on a balance of probabilities, I find that the Tenant has not paid the outstanding rent within five days of receiving the 10 Day 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. 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.

The Act does not permit me to grant the Landlord a monetary order for unpaid rent when an Application for Dispute Resolution is served on a party by attaching a copy to a door. Section 89 (2) of the Act permits an Application for an order of possession to be served by posting it to a door, but does not permit an application for a monetary order to be served in this manner.

The Landlords claim for a monetary order for unpaid rent is dismissed with leave to reapply.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I grant the Landlord a monetary order in the amount of \$100.00. This order may be filed in the Provincial Court (Small Claims) 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 file 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 and a monetary order for the cost of the filing fee in the amount of \$100.00.

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: January 19, 2017

Residential Tenancy Branch