



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OP MNR MNSD FF

Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order. The matter began as an ex parte direct request proceeding, but by decision dated December 21, 2016 it was adjourned to be reconvened as a participatory hearing to be conducted by conference call on January 20, 2017 at 9:30 A.M. The landlord served the tenant, T.A.M. with the Notice of Hearing and the December 21, 2016 interim decision by registered mail sent to the address of the rental unit on December 30, 2016. The tenant was also served with the notice of direct request proceeding by registered mail sent on December 16, 2016. The reconvened hearing was conducted by conference call. The landlords called in and participated in the hearing. The tenant did not appear although as note, she was served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on December 30, 2016.

Issues

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Background and Evidence

This tenancy began on June 1, 2015. The rent is \$1,100.00 due in advance on the first day of each month. The tenants paid a security deposit of \$550.00 at the start of the tenancy. The landlord testified that the tenant G.L.S.W. moved out earlier in the tenancy and the tenancy has proceeded with Ms. T.A.M. as the sole tenant since then. The landlord is seeking a monetary order against Ms. T.A.M. only.

The tenant did not pay the full rent for October, 2016 when it was due. She made several part payments leaving \$560.00 outstanding for October. The tenant paid \$400.00 for November rent, leaving \$700.00 outstanding for November. The tenant did not pay rent for December. On December 5, 2016 the landlord served the tenant with a Notice to End Tenancy for non-payment of rent by leaving it with an adult occupant of the rental unit and by attaching a copy to the door of the rental unit. The tenant did not make any rent payment after receiving the Notice to End Tenancy and she did not file an application to dispute the Notice to End Tenancy.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

Order of Possession - Based on the above background, evidence and analysis 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.

Monetary Order and Security Deposit - I find that the landlord has established a total monetary claim of \$2,360.00 for the outstanding rent for October, November and December.

Since the landlord's application was filed January rent has come due and has not been paid. The Residential Tenancy Branch Rules of Procedure contain provisions with respect to amendment of applications at a hearing:

4.2 Amending an application at the hearing

In circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing. If an amendment to an application is sought at a hearing, an Amendment to an Application for Dispute Resolution need not be submitted or served.

The landlords requested that the application be amended to include a claim for January rent. The tenant has continued to occupy the unit and is aware that rent is due; I therefore allow the amendment to include a claim for January rent of \$1,100.00 for a total award of \$3,460.00. Because this began as a direct request proceeding, I make no order with respect to the filing fee. Pursuant to section 72 of the *Residential Tenancy Act*, I order that the landlord retain the deposit of \$550.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$2,910.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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 20, 2017

Residential Tenancy Branch