



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Codes OPR, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, for a monetary order for unpaid rent or utilities, and to recover the filing fee from the tenant.

Although served with the Application for Dispute Resolution and Notice of Hearing, by registered mail sent on January 18, 2017, the tenant did not appear. A Canada post tracking number was provided as evidence of service. I find that the tenant has been duly served in accordance with the Act.

The landlord gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

Procedural matter

At the conclusion of the hearing the landlord indicated that they have another hearing scheduled for February 15, 2017, at 11:00am. The landlord stated that they request that matter be cancelled since they were granted an order of possession at today's hearing as the issue to be heard on February 15, 2017, was for an early end to tenancy and obtain an order of possession. I find it appropriate to cancel the hearing scheduled for February 15, 2017, as the landlord received an order of possession at today's hearing. I have noted on the covering page of this decision the filed number and the Arbitrator for the hearing has been informed that matter has been cancelled.

Issues to be Decided

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

Background and Evidence

The landlord testified that they purchased the property from the previous owner, who is listed on the tenancy agreement.

The landlord stated that the tenant did not pay rent for December 2016 and was served with a notice to end tenancy for non-payment of rent on December 15, 2016. The landlord stated a copy was posted to the door of the rental unit and they also sent a copy by registered mail. A Canada post tracking number was provided as evidence.

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 landlord stated that the last time they saw the tenant at the rental unit was on January 27 or 28, 2016. The landlord stated that the tenant utter threats and said they were not going to pay any rent.

The landlord seeks to recover unpaid rent for December 2016, January 2017 and February 2017 in the amount of \$4,150.00. The landlord seeks an order of possession.

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, 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.

I find that the landlord has established a total monetary claim of **\$4,150.00** comprised of unpaid rent as stated above and the \$100.00 fee paid by the for this application. 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 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.

The landlord is granted an order of possession, and a monetary order in the above stated amount.

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: February 14, 2017

Residential Tenancy Branch