



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

For the landlord - OPR, MNR

For the tenant - CNR

Introduction

This hearing was convened by way of conference call in response to both parties' applications for Dispute Resolution. The tenant applied to cancel a 10 Day Notice to End Tenancy for unpaid rent or utilities. The landlord applied for Order of Possession for unpaid rent or utilities and for a Monetary Order for unpaid rent or utilities.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*; served in person on January 13, 2017.

The hearing went ahead as scheduled and the landlord dialed into the conference call. The phone line remained open for 20 minutes; however, the tenant did not dial into the call during this time. Based on the above I find that the tenant has failed to present the merits of his application and the application is dismissed without leave to reapply.

The landlord gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Is the landlord entitled to an Order of Possession?
- Is the landlord entitled to a Monetary Order for unpaid rent?

Background and Evidence

The landlord testified that this was a fixed term tenancy started on December 01, 2016 for one month only. Rent for this unit is \$550.00 per month due on the 1st of December.

The landlord testified that the tenant failed to pay the rent due on December 01, 2016 but did pay \$200.00 towards the rent on December 26, 2016. This left an unpaid balance of \$350.00. The landlord issued a 10 Day Notice to End Tenancy for unpaid rent (the Notice) on January 02, 2017. This was served in

person to the tenant. The tenant had five days to either pay the outstanding rent, apply for Dispute Resolution or the tenancy would end on January 12, 2017. The tenant did not pay the outstanding rent, but did file an application to dispute the Notice. Since December 26, 2016 the tenant has failed to pay rent for January, 2017 of \$550.00 and for February, 2017 of \$550.00. The total amount of unpaid rent is now \$1,450.00. Furthermore the tenant has continued to reside in the rental unit although his tenancy should have ended on December 31, 2016. The landlord seeks to amend his application to include the unpaid rent for February, 2017.

The landlord seeks an Order of Possession to take effect as soon as possible and seeks a Monetary Order to recover the unpaid rent.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of the landlord. I refer the parties to s. 26 of the *Act* which states:

A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

I am satisfied from the evidence before me that there is outstanding rent for December, 2016 of \$350.00 and outstanding rent for January and February, 2017 of \$ 1,100.00. I will allow the landlord to amend his application for some unpaid rent for February as the tenant has continued to reside in the rental unit and would know that rent must still be paid. Consequently, it is my decision that the landlord is entitled to recover these amounts to a total of **\$1,450.00** and will receive a Monetary Order pursuant to s. 67 of the *Act*.

I accept that the tenant was served the 10 Day Notice to End Tenancy for unpaid rent, pursuant to section 88 of the *Residential Tenancy Act*. The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not pay all the outstanding rent within five days and his application to dispute the Notice has been dismissed without leave to reapply.

Based on the foregoing, I find that the landlord is entitled to an Order of Possession effective two days after service pursuant to s. 55 of the *Act*.

Conclusion

I HEREBY FIND in favor of the landlord's amended monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$1,450.00** pursuant to s. 67 of the *Act*. The Order must be served on the tenant; if the tenant fails to comply with the Order, The Order is enforceable through the Provincial (Small Claims) Court as an Order of that Court.

I HEREBY ISSUE an Order of Possession in favor of the landlord effective **two days** after service upon the tenant. This Order must be served on the tenant; if the tenant fails to comply with the Order, the Order may be filed in the Supreme 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: February 06, 2017

Residential Tenancy Branch