



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for an order of possession pursuant to a ten day notice to end tenancy for unpaid rent.

The landlord initially made this application by direct request which was rescheduled to a participatory hearing. The landlord served the tenant with the notice of hearing and informed the tenant that she would be continuing with her application for an order of possession even though the tenant was caught up on rent payments.

Based on the landlord's testimony, I find that the tenant has been served with the notice of hearing documents. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord entitled to an order of possession?

Background and Evidence

The tenancy started on February 25, 2014. The monthly rent is \$375.00 due in advance on the first of each month.

The landlord testified that the tenant is repeatedly late paying rent and failed to pay rent that was due on February 01, 2017. On February 02, 2017, the landlord served the tenant with a notice to end tenancy for unpaid rent, by posting the notice on the front door. The tenant did not dispute the notice. On February 20, 2017 the tenant paid full rent for February and the landlord issued a receipt for use and occupancy only. The landlord testified that as of the date of the hearing, the tenant did not owe rent but was informed that the rent paid for February and March 2017 was for use and occupancy only. The landlord requested an order of possession. She stated that she would not serve the order on the tenant if he paid rent for April on April 01, 2017.

Analysis

Based on the undisputed sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. The tenant is deemed to have received the notice to end tenancy on February 05, 2017 and did not within five days, pay all outstanding rent nor did the tenant make application, pursuant to Section 46 to set aside the notice to end a residential tenancy, and the time to do so has expired.

In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. Pursuant to section 55(2) I am issuing a formal order of possession effective April 01, 2017. The Order may be filed in the Supreme Court for enforcement.

Conclusion

I grant the landlord an order of possession effective by 1:00 pm on April 01, 2017.

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: March 23, 2017

Residential Tenancy Branch