



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 9:40 a.m. in order to enable them to connect with this teleconference hearing scheduled for 9:30 a.m. The landlords' agent attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord entered written evidence from his agent and sworn testimony from the agent that he posted the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenants' door on March 3, 2017. I am satisfied that the landlord's agent served this Notice to the tenants in accordance with section 88 of the *Act*. In accordance with section 90 of the *Act*, the 10 Day Notice was deemed served to the tenants on March 6, 2017, the third day after its posting.

The landlords' agent gave written evidence and sworn oral testimony that copies of the landlord's dispute resolution hearing package was sent to the tenant by registered mail on April 1, 2017. The landlord entered into written evidence copies of the returned envelope, including the Canada Post Tracking Numbers, showing that his hearing packages was sent to the tenants by Registered Mail and was returned as "unclaimed" In accordance with sections 89 and 90 of the *Act* I am satisfied the tenant was served

notice of this hearing. The hearing proceeded and completed on this date in the absence of the tenant.

Preliminary Issue

The landlords' agent advised that the tenant abandoned the unit in late April and that the landlord has taken possession of the unit; accordingly I dismiss the landlords request for an order of possession as it is no longer required.

Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The tenancy began on or about March 1, 2017. The parties entered into a verbal tenancy agreement. Rent in the amount of \$2100.00 is payable in advance on the first day of each month. The tenant failed to pay rent in the month(s) of March and on March 3, 2017 the landlords' agent served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of April. The landlord advised that as of today's hearing the amount of unpaid rent is \$4200.00. The landlord is also seeking the recovery of the \$100.00 filing fee.

Analysis

The tenant failed to pay their rent in full within five days of being deemed to have received the 10 Day Notices. The tenant has not made application pursuant to section 46(4) of the *Act* within five days of being deemed to have received the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenants' failure to take either of these actions within five days led to the end of their tenancy on the corrected effective date of the notice. Based on the undisputed evidence provided by the landlord, I am satisfied that the tenants continue to owe the landlord unpaid rent. The landlord is entitled to unpaid rent of \$4200.00 as well as the recovery of the \$100.00 filing for a total award of \$4300.00.

Conclusion

I grant the landlord an order under section 67 for the balance due of \$4300.00. This order may be filed in the Small Claims Division of the Provincial 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: May 08, 2017

Residential Tenancy Branch