



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, 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 pursuant to section 67;
- authorization to recover its filing fee for this application from the tenant pursuant to section 72.

The landlord attended the hearing via conference call and provided undisputed affirmed testimony. The tenant did not attend or submit any documentary evidence. The landlord stated that the tenant was served with the notice of hearing package and the submitted documentary evidence in person on October 26, 2017. The landlord filed an amendment reducing the monetary claim from \$926.10 to \$563.05 which was served to the tenant in person. I accept the undisputed evidence of the landlord and find that the tenant was properly served as per sections 88 and 89 of the Act.

Issue(s) to be Decided

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

Is the landlord entitled to a monetary order for unpaid rent and recovery of the filing fee?

Background and Evidence

This tenancy began on October 1, 2015 on a month-to-month basis as shown by the submitted copy of the signed tenancy agreement dated October 1, 2015. The monthly rent was \$450.00 payable on the 1st day of each month which was later increased to \$463.05 as a result of a notice of rent increase dated July 1, 2016 which took effect on October 1, 2016. A security deposit of \$220.00 was paid on October 1, 2015.

The landlord confirmed that the tenant was served with the 10 Day Notice dated August 2, 2017 on August 2, 2017 in person for which the tenant signed in receipt of. The 10 Day Notice states that the tenant failed to pay rent of \$926.10 that was due on August 2, 2017. The 10 Day Notice does not display an effective end of tenancy date.

The landlord seeks an order of possession and a monetary order for unpaid rent of \$563.05 which consists of:

\$463.05	Unpaid Rent, October 2017
\$100.00	Filing Fee

Analysis

Pursuant to section 46 of the Act, a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end tenancy effective on a date that is not earlier than ten days after the date the tenant receives the notice. However, section 52 of the Act speaks to form and content of a notice to end tenancy. In order to be effective the notice to end tenancy when given by a landlord must be in the approved form and state the effective date of the notice. In this case, the landlord confirmed that the effective date was omitted when it was served to the tenant. As such, I find that the 10 Day Notice dated August 2, 2017 to be ineffective and set aside the Notice.

Conclusion

The landlord's application is dismissed.

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: November 16, 2017

Residential Tenancy Branch