



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding FRONT STREET REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFL OPU OPUM-DR

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking an Order of Possession for unpaid rent or utilities, a monetary order for unpaid rent or utilities, and to recover the filing fee from the tenant for the cost of the application.

An agent for the landlord attended the hearing and gave affirmed testimony, however the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant joined the call.

An Interim Decision was made by the director, Residential Tenancy Branch requiring the landlord to serve the tenant with a copy of the Interim Decision, notice of this hearing and other documentation. The landlord's agent testified that the tenant was served with the documentation by registered mail on January 18, 2018 and has provided a copy of a Canada Post cash register receipt bearing that date, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

Issue(s) to be Decided

- Has the landlord established that the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities was issued in accordance with the *Residential Tenancy Act*?
- Has the landlord established a monetary claim as against the tenant for unpaid rent or utilities?

Background and Evidence

The landlord's agent testified that this fixed term tenancy began on May 1, 2017 and expires on April 30, 2018 thereafter reverting to a month-to-month tenancy, and the tenant still resides in the rental unit. Rent in the amount of \$1,150.00 per month is payable on the 1st day of each month, as well as \$40.00 per month for parking. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$575.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is a suite within an 8-plex, and the landlord's agent is the property manager but does not reside on the property. A copy of the tenancy agreement has been provided as evidence for this hearing.

The landlord's agent further testified that the tenant usually attended the landlord's office to pay rent in cash. However, the last payment the tenant made was on October 18, 2017 for October's rent and parking. No rent or parking fee has been paid for November or since, and the tenant is in arrears of rent the sum of \$4,600.00 and \$160.00 for parking.

The City utility (power) is in the name of the tenant, however the tenant has not paid the power bill and the by-law specifies that if the tenant does not pay, the overdue amount is added to the owner's property taxes. The landlord has learned that \$393.49 is outstanding and the power to the rental unit has been cut off since November.

On December 1, 2017 the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, a copy of which has been provided for this hearing. It is dated December 1, 2017 and contains an effective date of vacancy of December 11, 2017 for unpaid rent in the amount of \$2,380.00 that was due on December 1, 2017 and unpaid utilities in the amount of \$393.49 following a written demand on November 24, 2017. The landlord's agent taped a copy to the door of the rental unit, then the tenant opened the door and the landlord handed another copy to him.

The tenant has not paid any rent since the notice was issued and has not served the landlord with an Application for Dispute Resolution disputing it.

Analysis

Once a tenant is served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities the tenant has 5 days to pay the rent in full or dispute the notice by filing and serving the landlord with an Application for Dispute Resolution. If the tenant does neither the tenant is conclusively presumed to have accepted the end of the tenancy and must move out of the rental unit 10 days after service or deemed service. In this case, I am satisfied that the tenant was personally served with the notice on December

1, 2017. I also accept the undisputed testimony of the landlord's agent that the tenant has not paid the rent and has not served the landlord with an Application for Dispute Resolution, and I have no such application before me. Therefore, I find that the tenant is conclusively presumed to have accepted the end of the tenancy and the landlord is entitled under the *Residential Tenancy Act* to an Order of Possession. Since the effective date of vacancy has passed, I grant the Order of Possession on 2 days notice to the tenant.

With respect to the monetary claim, I accept the undisputed testimony of the landlord's agent that the tenant has not paid any rent since October, 2017 and is indebted to the landlord the sum of \$4,600.00 for November and December, 2017 and January and February, 2018.

I also find that the tenant has failed to pay parking fees for each of those months and the landlord has established a monetary claim in the amount of \$160.00.

Since the landlord has been successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee.

The landlord has not applied for an order permitting the landlord to keep the security deposit, and therefore I make no orders with respect to it. The *Act* specifies that the tenant must provide the landlord with a forwarding address in writing within a year after the tenancy ends. The landlord does not know what the final utility bill will be, and I dismiss the claim for unpaid utilities with leave to reapply.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord on 2 days notice to the tenant.

I further grant a monetary order in favour of the landlord as against the tenant pursuant to section 67 of the *Residential Tenancy Act* in the amount of \$4,860.00.

The landlord's application for a monetary order for unpaid utilities is hereby dismissed with leave to reapply.

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, 2018

Residential Tenancy Branch