



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NEIGHBOURHOOD HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MNR OPR FF

Introduction:

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 10:45 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 10:30 a.m. on July 26, 2018. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony/affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord said they served the 10 Day Notice to End Tenancy dated May 24, 2018 to be effective June 5, 2018 by posting it on the tenant's door and served the Application for Dispute Resolution by registered mail. When the registered mail was refused, they taped the Application to the tenant's door in presence of a witness. I find the documents were legally served or deemed to be served pursuant to sections 88, 89 and 90 of the Act for the purposes of this hearing. The landlord applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) A monetary order pursuant to Sections 46 and 67 for unpaid rent;
- b) An Order of Possession pursuant to sections 46 and 55; and
- c) An order to recover the filing fee pursuant to Section 72.

Issue(s) to be Decided:

Is the landlord entitled to an Order of Possession and a monetary order for rental arrears and to recover the filing fee for this application?

Background and Evidence:

Only the landlord attended the hearing and was given opportunity to be heard, to present evidence and to make submissions. They provided evidence the tenancy commenced February 1, 2015, a security deposit of \$420 was paid and rent (as subsidized) is now \$350 a month plus \$25 for cable. It is undisputed that the tenant has not paid rent from March to July 2018. The landlord claims rent of \$271.81 for March 2018 and \$375 for each of April, May, June and July 2018 for a total of \$1771.81. They prefer to hold the security deposit in trust for there is damage. We discussed the provisions of section 38 of the Act.

The landlord requests an Order of Possession effective two days from service. They note the tenant appeared to have vacated at the end of June 2018 but he had a number of other guests or occupants who remained on the premises. They also request a monetary order for \$1771.81 plus the filing fee for a total of \$1871.81. On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis:

Order of Possession:

I find the landlord entitled to an Order of Possession. The weight of the evidence is that there is unpaid rent from March to July 2018. Section 46(5) of the Act states if a tenant who receives a 10 Day Notice for Unpaid rent does not pay the rent (within 5 days after receipt of the Notice) or make an Application for Dispute Resolution, the tenant is conclusively presumed to have accepted the tenancy ends on the effective date of the Notice and must vacate the rental unit. I find the tenancy ended on June 5, 2018. The landlord is issued an Order of Possession effective two days from service as requested.

Monetary Order:

The onus is on the applicant to prove on a balance of probabilities their claim. I find the weight of the evidence is that the tenant owes \$1771.81 in unpaid rent. I find the landlord entitled to a monetary order for this amount.

Conclusion:

I find the landlord entitled to an Order of Possession effective two days from service and to a monetary order for \$1871.81 which includes the \$100 filing fee.

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: July 26, 2018

Residential Tenancy Branch