



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VMM COMMUNICATIONS INC.
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 9:48 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. on October 11, 2018. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony or 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/tenant and I were the only ones who had called into this teleconference.

The landlord provided evidence that they had served a 10 Day Notice to End Tenancy dated August 24, 2018 to be effective September 5, 2018 by registered mail. They also provided evidence of service by registered mail of their Application dated September 11, 2018. I find the documents were legally served pursuant to sections 88 and 89 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 that the tenancy commenced August 15, 2014, rent was \$4000 a month and a security deposit of \$2000 was paid. The landlord said the tenant was often late in paying rent and after discussion, he agreed to accept \$3500 a month as rent. However, he said the tenant has not paid rent from April to October 2018. He has a management company to manage the property and he provided some of their statements as evidence. There is no rental ledger in evidence showing how much was paid and how much is owed. The landlord is claiming \$26,500 in unpaid rent.

In evidence is the tenancy agreement, the Notice to End Tenancy for unpaid rent, registered mail tracking information and some property management rent statements.

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 for several months. 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 September 5, 2018. The landlord is issued an Order of Possession effective two days from service.

Monetary Order:

As explained to the landlord in the hearing, the onus is on the applicant to prove on a balance of probabilities their claim. I find the landlord did not submit any ledgers, accounting records or receipt books to support their claim for unpaid rent. I find the property management information that he submitted is inadequate to explain what was paid and what is owed. Although he said the tenant did not pay rent for May 2018, I saw the management statement noted income of \$1,000 in May. I dismiss the landlord's claim for a monetary order as the records submitted do not support it. I give him leave to reapply for a monetary order for the unpaid rent.

Conclusion:

I find the landlord entitled to an Order of Possession effective two days from service. I find him entitled to recover his filing fee. I give him leave to reapply for a monetary order for unpaid rent.

I HEREBY ORDER that the landlord may recover the filing fee by deducting \$100 from the tenant's security deposit.

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: October 11, 2018

Residential Tenancy Branch