



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR; MNRL, FFL

Introduction

This hearing was scheduled in response to the tenant's application pursuant to section 46 of the *Residential Tenancy Act* (the "Act") for cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the "10 Day Notice"). This hearing was also scheduled in response to the landlord's cross application for a monetary order for unpaid rent, pursuant to section 67.

The tenant did not participate in the conference call hearing to present her claim; consequently the tenant's application is dismissed without leave to reapply. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that she personally served the tenant with the landlord's application for dispute resolution hearing package. The landlord could not provide the date she served the tenant these documents. In the absence of evidence or testimony confirming service of the hearing package, I dismiss the landlord's entire application with leave to reapply.

Section 55 of the *Act* establishes that if a tenant makes an application for dispute resolution to dispute a landlord's notice to end tenancy, an order of possession must be granted to the landlord if, the notice to end tenancy complies in form and content and the tenant's application is dismissed or the landlord's notice is upheld.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

As per the testimony of the landlord, the tenancy began on October 1, 2017 and was renewed every six months. Rent in the amount of \$2,000.00 is payable on the first of each month. The tenant remitted a security deposit in the amount of \$750.00 at the

start of tenancy, which the landlord still retains in trust. The tenant continues to reside in the rental unit.

The landlord testified that the tenant was served with the 10 Day Notice on October 24, 2018, by way of posting. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the 10 Day Notice on October 27, 2018, three days after it was posted. The landlord testified that she has not received any rent payment since issuing the 10 Day Notice.

Analysis

Section 52 of the *Act* provides that a notice to end tenancy from a landlord must be in writing and must be signed and dated by the landlord, give the address of the rental unit, state the effective date of the notice, state the grounds for ending the tenancy, and be in the approved form.

Based on the landlord's testimony and the 10 Day Notice before me, I find the 10 Day Notice complies in form and content. As the 10 Day Notice complies in form and content and as the tenant's application has been dismissed I find that the landlord is entitled to an order of possession, pursuant to section 55 of the *Act*.

Conclusion

The tenant's application is dismissed without leave to reapply.

The landlord's entire application is dismissed with leave to reapply.

An order of possession is granted to the landlord effective **two (2) days after service on the tenant**.

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: December 07, 2018

Residential Tenancy Branch