



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 3BBB HOLDINGS LTD and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, for a monetary order for unpaid rent or utilities, and to recover the filing fee from the tenants.

On May 23, 2019, this matter was scheduled by way of direct request proceeding. The adjudicator made finding that the tenants were served in accordance with the Act. The interim decision should be read in conjunction with this decision.

The landlord's agent testified they complied with the instruction of the interim decision and served the documents by registered mail on May 27, 2019. Canada post tracking numbers were provided as evidence of service. The landlord's agent stated that they were not mailed to the residential address as the tenants have not activated the mailbox. The agent stated that the tenants provided them with an alternate address of service by text message.

The packages were not claimed by the tenants. Refusal or neglect to pick up the packages does not override the deemed service provision of the Act.

Section 90 of the Act determines that a document served in this manner is deemed to have been served, three five days later. I find that the tenants have been duly served in accordance with the Act.

The landlord's agent, gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

Issues 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?

Background and Evidence

Based on the testimony of the landlord's agent, I find that the tenants were served with a notice to end tenancy for non-payment of rent on May 7, 2019, by personal service, which the proof of service was signed by the tenant. The notice informed the tenants that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenants had five days to dispute the notice.

The landlord's agent testified that the tenants were in rent arrears in the amount of \$5,268.00 as of May 1, 2019. The landlord stated that the tenants have not paid rent of \$2002.00 for June and July 2019 and the amount owed is currently \$9,272.00.

The landlord's agent stated that they seek an order of possession and a monetary order. The agent stated that they hold \$905.00 security deposit and \$100.00 pet damage deposit and seek to apply those against unpaid rent.

Filed in evidence are emails, which confirm the tenants were in rent arrears and that they received a copy of the notice to end tenancy.

Analysis

Based on the above, the testimony, and evidence, and on a balance of probabilities, I find as follows:

The tenants have not paid the outstanding rent, did not apply to dispute the notice, and are therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective **two days** after service on the tenants. This order may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord has established a total monetary claim of **\$9,372.00** comprised of unpaid rent and the \$100.00 fee paid by the landlord for this application.

I order that the landlord retain the security deposit of \$950.00 and pet damage deposit of \$100.00 in partial satisfaction of the claim and I grant the landlord an order pursuant to section 67 of the Act, for the balance due of **\$8,322.00**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

Conclusion

The tenants failed to pay rent and did not file to dispute the notice to end tenancy. The tenants are presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlord is granted an order of possession, and may keep the security deposit and interest in partial satisfaction of the claim. I grant a monetary order for the balance due.

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 08, 2019

Residential Tenancy Branch