



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ATIRA MANAGEMENT PROPERTY
INC. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, FF

Preliminary matter

The original application for this matter was made on July 17, 2019 as a Direct Request application, which is an Ex Parte application conducted by written submissions only. The requirement for a Direct Request application is that all documentation is complete and accurate. In this case the 10 Day Notice to End Tenancy for Unpaid Rent did not have page 2 attached therefore the application was scheduled for a participatory hearing on today's date.

Introduction

This matter dealt with an application by the Landlord for an Order of Possession.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on July 29, 2019. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy?

Background and Evidence

This tenancy started on September 28, 2018 as a month to month tenancy. Rent is \$375.00 per month payable in advance of the 1st day of each month. The Tenant did not pay a security deposit.

The Landlord said that the Tenant did not pay \$2,812.50 of rent from December 2018 to May 2019 when it was due and as a result, on May 24, 2019 the Landlord posted a 10

day Notice to End Tenancy for Unpaid Rent or Utilities dated May 24, 2019 on the door of the Tenant's rental unit on May 24, 2019. The Landlord said the Tenant has unpaid rent for July, August and September 2019 as well. The Landlord said the Tenant has a total of \$4,312.50 of unpaid rent. The Landlord said they are not applying to recover the unpaid rent.

The Landlord further indicated that the Tenant is living at the rental unit. The Landlord requested an Order of Possession for as soon as possible.

Analysis

Section 46(4) of the Act states that **within 5 days of receiving** a Notice to End Tenancy for Unpaid Rent or Utilities, a Tenant must pay the overdue rent or apply for dispute resolution. If the Tenant fails to do either of these things, then under section 46(5) of the Act, they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy three days after it was posted on the door, or on May 27, 2019. Consequently, the Tenant would have had to pay the amount stated on the Notice or apply to dispute that amount no later than June 1, 2019.

I find that the Tenant has not paid the overdue rent and has not applied for dispute resolution. Consequently, I find pursuant to s. 55 of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.

Conclusion

An Order of Possession effective 2 days after service of it on the Tenant has been issued to the Landlord. A copy of the Order must be served on the Tenant: the Order of Possession may be enforced in the Supreme Court

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: September 24, 2019

Residential Tenancy Branch