



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for an order of possession pursuant to section 55.

Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The parties represented themselves.

As both parties were in attendance, I confirmed service of documents. The tenant stated that he had not received the landlord's evidence package and added that he thought he had filed evidence of his own but was not sure. There were documents filed into evidence on the tenant's electronic file. Since both parties stated that they had not received each other's evidence, the landlord's evidence was not used in the making of this decision.

At the start of the hearing, the tenant requested that this hearing be adjourned to a later date to give him enough time to submit his evidence. The tenant stated that he was unable to file his evidence due to illness. Earlier the tenant stated that he was not sure whether he had filed evidence. The tenant did not file any documents to support his testimony that he was too sick to file his evidence.

In any event the main issue was the payment of rent and the tenant stated that he paid rent in cash but did not have receipts. Since the purpose for which the adjournment was sought which was to file evidence of rent paid, and the tenant did not have rent receipts, I denied the tenant's request for an adjournment and the hearing continued on.

Issues to be decided

Is the landlord entitled to an order of possession?

Background and Evidence

The tenancy started in April 2012. The current monthly rent is \$800.00 due in advance on the first of each month.

The landlord stated that the tenant failed to pay rent on February 01, 2020 and when she asked the tenant to pay, she was met with aggressive behavior. The landlord added that the tenant also failed to pay rent on March 01, 2020 and the landlord intended to serve the tenant with a 10 day notice to end tenancy but did not do so prior to the declaration of the state of emergency on March 18, 2020.

The landlord testified that due to the Pandemic, she thought she was not permitted to serve the tenant with a notice to end tenancy for non payment of rent. However, the landlord contacted the Residential Tenancy Branch office and found out that she was able to serve a ten-day notice to end tenancy for nonpayment of rent, for unpaid rent prior to March 18, 2020.

Accordingly, on June 24, 2020, the landlord served the tenant, with a ten-day notice to end tenancy for unpaid rent in the amount of \$1,600.00 that was due on March 01, 2020. The landlord filed proof of having served the tenant with the notice by posting it on the door. The tenant did not dispute the notice to end tenancy and continues to occupy the rental unit without paying rent. The landlord added that the tenant has allowed another person to live in the rental unit.

The tenant denied having a roommate and stated that he paid rent for February and March 2020 in cash but did not have any evidence to support his testimony. The tenant stated that he attempted to pay rent in the months following March 2020, but the landlord refused to accept it.

The landlord is applying for an order of possession effective on August 31, 2020.

Analysis

Based on the sworn testimony of both parties, I found the landlord believable, sincere and forthright and therefore I accept the landlord's evidence in respect of the claim. The tenant is deemed to have received the notice to end tenancy for unpaid rent, on June 27, 2020 and did not full pay rent within five days of receiving the notice to end tenancy nor did the tenant make application, pursuant to Section 46 to set aside the notice to end a residential tenancy, and the time to do so has expired.

In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. Pursuant to section 55(2) I am issuing a formal order of possession effective by 1:00pm on August 31, 2020. The Order may be filed in the Supreme Court for enforcement.

Conclusion

I grant the landlord an order of possession **effective by 1:00pm on August 31, 2020.**

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: August 18, 2020

Residential Tenancy Branch