



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Bayview Strata & Rental Services and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes: *OPR, CNR, MNR, FF*

Introduction

This hearing dealt with applications by the landlord and the tenant, pursuant to sections 55, 67, 46 and 72 of the *Residential Tenancy Act*.

The landlord applied for an order of possession and for a monetary order for unpaid rent. The tenant applied for an order to cancel the notice to end tenancy. Both parties applied for the recovery of the filing fee.

The landlord attended the hearing and was given full opportunity to present evidence and make submissions. The tenant did not attend the hearing.

The landlord testified that she served the tenant with a notice of hearing on September 25, 2020, by registered mail to the rental unit. The landlord filed a copy of the tracking slip into evidence. Despite having been served with a notice of hearing and having made application for dispute resolution, the tenant did not attend the hearing. Therefore, the tenant's application is dismissed without leave to reapply and accordingly this hearing only dealt with the landlord's application.

At the start of the hearing, the landlord stated that a neighbour residing near the rental unit informed the landlord that the tenant appeared to be moving out as there were moving trucks parked outside the rental unit on November 08 and November 09, 2020.

Issues to be decided

Is the landlord entitled to an order of possession and a monetary order for unpaid rent and the filing fee?

Background and Evidence

The landlord testified that the tenancy started on December 01, 2016. The monthly rent was \$1,333.00 payable on the first of the month. Prior to moving in the tenant paid a security deposit of \$600.00.

The tenant failed to pay rent that was due on September 01, 2020. On September 8, 2020, the landlord served the tenant with a 10-day notice to end tenancy for nonpayment of rent, by posting the notice on the door of the rental unit. The tenant disputed the notice in a timely manner but did not pay rent owed to the landlord and continued to occupy the rental unit. The tenant also failed to pay rent that was due on October 01, 2020 and on October 05, 2020, the landlord served the tenant with a second 10-day notice to end tenancy.

The landlord testified that at the time of the hearing, the tenant owed rent for the months of September, October and November 2020 in the total amount of \$3,999.00. The landlord is applying for an order of possession effective two days after service on the tenant and for a monetary order in the amount of \$3,999.00 for unpaid rent plus \$100.00 for the filing fee.

Analysis

Based on the undisputed sworn testimony of the landlord, I accept her evidence in respect of the claim. The tenant is deemed to have received the notice to end tenancy on September 11, 2020 and did not pay overdue rent within five days of receiving the notice. The tenant applied to dispute the notice but did not attend the hearing.

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 two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement.

In the absence of evidence to the contrary, I find that the landlord has established a claim of \$3,999.00 for unpaid rent for the months of September, October and November 2020.

Since the landlord has proven her claim, she is also entitled to the recovery of the filing fee of \$100.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for \$4,099.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord an order of possession effective **2 days** after service on the tenant.

I grant the landlord a monetary order in the amount of **\$4,099.00**.

The tenant's application is dismissed in its entirety.

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: November 09, 2020

Residential Tenancy Branch