



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This matter proceeded by way of an ex parte Direct Request Proceeding, pursuant to section 55(4) of the Residential Tenancy Act (the Act) and dealt with an Application for Dispute Resolution by the landlords for an Order of Possession based on unpaid rent and a Monetary Order.

On April 9, 2021, the landlords' application was considered, and the Adjudicator determined this matter should be adjourned to a participatory hearing scheduled for today July 27, 2021 at 11:00am. In the interim decision the Adjudicator found the tenant was served with the landlords' application.

The Adjudicator further ordered that the landlord must serve the tenant with the Notice of Reconvened Hearing, a copy of the interim decision, and all other required documents within three days of receiving the interim decision.

Only the landlords appeared at the reconvened hearing. The landlords stated that they served the tenant with the required documents by posting to the door on April 12, 2021. I find the tenant was deemed served in accordance with the Act, three days after it was posted to the door.

As the documents were posted to the door, I find the only issue I can consider in the landlords' application for an order of possession. Therefore, I dismiss the landlords' application for unpaid rent with leave to reapply.

Issue to be Decided

Are the landlords entitled to an order of possession?

Background and Evidence

The landlords testified that the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on March 2, 2021, which was served on the same day by posting to the door. The landlords stated that the tenant did not pay the outstanding rent and has failed to pay any subsequent rent.

The landlords stated that they believe the tenant may have abandoned the rental unit as the tenant has not paid rent since March 2021, and the tenant has not been seen for at least one month. The landlords stated they have not accessed the rental unit; however, they are concerned that damage may be occurring due to garbage being left inside.

Analysis

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

I find that the tenant was served with the Notice on March 2, 2021, by posting to the door. I have reviewed the Notice and I find it was completed in accordance with section 52 of the Act. The notice informed the tenant that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenant had five days to dispute the notice.

The tenant did not pay the outstanding rent, nor did the tenant dispute the Notice. I am satisfied that the landlords have met the statutory requirements under the Act to end tenancy.

I find that the landlords are entitled to an order of possession, pursuant to section 55 of the Act, effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

In this case, the rental unit may have been abandoned by the tenant. As the tenant has not paid rent since March 2021 and has not been seen at the rental unit for an extended period of time. Based on this, I find the landlords are entitled to access the premises to make this determination because there would be no need to enforce the order of possession if the tenant has vacated.

As the landlords were successful with their application, I find the landlords are entitled to recover the cost of the filing fee from the tenant. I authorize the landlords to keep \$100.00 from the tenant's security deposit if full satisfaction of this award.

Conclusion

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

The landlords are granted an order of possession. The landlords are authorized to keep \$100.00 from the security deposit to recover the cost of the filing fee. The landlords' application for unpaid rent is dismissed with leave to reapply.

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 27, 2021

Residential Tenancy Branch