



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding M'akola Housing Society and [tenant
name suppressed to protect privacy]

DECISION

Dispute Codes OPR-DR-PP, FFL

Introduction

This hearing was scheduled to convene at 11:00 a.m. on November 9, 2021 concerning an application made by the landlord seeking an Order of Possession for unpaid rent or utilities and to recover the filing fee from the tenant for the cost of the application. The application was made by way of the Direct Request process which was referred to this participatory hearing and an Interim Decision dated August 4, 2021 was provided to the landlord. The interim Decision required the landlord to serve the Interim Decision, notice of this hearing and all other required documents to the tenant within 3 days of receiving the Interim Decision.

An agent for the landlord attended the hearing, gave affirmed testimony and was accompanied by another agent of the landlord for training purposes, who did not testify or take part in the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenant joined the call.

The landlord's agent testified that the tenant was served with the Interim Decision and all other required documents, including notice of this hearing and all evidentiary material on August 5, 2021 by registered mail. The landlord has provided a copy of a Registered Domestic Customer Receipt addressed to the tenant as well as a Canada Post cash register receipt bearing that date and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act* and the order in the Interim Decision.

All evidence of the landlord has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Has the landlord established that the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities was issued in accordance with the *Residential Tenancy Act*?

Background and Evidence

The landlord's agent (hereafter called the landlord) testified that this month-to-month tenancy began on April 1, 2012 and the tenant still resides in the rental unit. Rent is subsidized and the tenant's share was \$395.00 per month but was increased after a rent review on April 19, 2017 to \$796.00 per month. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$383.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is a single family dwelling and copies of the tenancy agreement and rent review documents have been provided as evidence for this hearing.

The landlord further testified that on May 6, 2021 the landlord served the tenant with all 3 pages of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities by registered mail. Copies of the first and third pages have been provided for this hearing, dated May 6, 2021 with an effective date of vacancy of May 21, 2021. The landlord testified that due to a clerical error the second page was not uploaded to the Residential Tenancy Branch case management system, but all 3 pages were served to the tenant and all 3 pages were provided in the evidence package sent to the tenant. The landlord also testified that the reason for issuing it stated that the tenant had failed to pay rent in the amount of \$1,868.00 that was due on May 1, 2021.

Since the tenant has not joined the hearing, I allowed the landlord to upload the entire notice to end the tenancy that was served on the tenant, after the hearing had concluded.

The landlord also testified that the tenant has not served the landlord with an Application for Dispute Resolution disputing the notice, and now arrears have accumulated to \$4,226.72.

Analysis

The *Residential Tenancy Act* states that once served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the Notice), the tenant has 5 days to pay the rent

in full or dispute the Notice by filing and serving the landlord with an Application for Dispute Resolution. If the tenant does neither, the tenant is conclusively presumed to have accepted the end of the tenancy.

In this case, the landlord testified that the tenant has not paid the rent in full and has not served the landlord with an application disputing the Notice, and I have no such application before me. Therefore, I find that the tenant is conclusively presumed to have accepted the end of the tenancy.

I have reviewed all 3 pages of the Notice, and I find that it is in the approved form and contains information required by the *Act*. Therefore, I find that the landlord is entitled to an Order of Possession. Since the effective date of vacancy has passed, I grant the Order of Possession effective on 2 days notice to the tenant.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$100.00 filing fee, and I order that the landlord may keep that amount from the security deposit held in trust as full recovery.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

I further order that the landlord may keep \$100.00 from the security deposit held in trust as full recovery of the filing fee.

This order is final and binding and may be enforced.

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 10, 2021

Residential Tenancy Branch