



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **OPR-DR, MNR-DR, FFL**

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 landlord to obtain an Order of Possession based on unpaid rent, to obtain monetary compensation for unpaid rent, and to recover the filing fee paid for the application.

On December 3, 2021 the Adjudicator considered the landlord's application and determined that this matter should be heard by a participatory hearing. The interim decision should be read in conjunction with this Decision. The Adjudicator made finding that the tenant DH and TM were served with the landlord's application.

The landlord's agent testified that on December 8, 2021, they complied with the interim decision as they served the tenant DH with the Notice of Hearing and interim decision by giving a copy to TM, who is an adult person who is living in the rental unit.

Preliminary and Procedural Issues

The landlord's agent stated that the tenant DH moved into the premises in 2019 and had roommates. The agent stated that the roommates were surprised that DH was not paying the rent to the landlord. The agent stated TM was named in the application as the landlord had accepted rent payments from TM on a few occasions.

In this case, I am not satisfied that TM is a tenant under the Act. TM was roommate of DH and moved in after the original tenancy was created and TM paid the rent to DH. While there may have been some payments accept by the landlord from TM; however, I have insufficient evidence that supports TM was tenant. Therefore, I find TM is an

occupant under the Act. Therefore, I have removed TM from the style of cause due to insufficient evidence

In this case the tenant DH was found served with the landlord's application in the interim decision; however, DH was served with the Notice of Hearing and interim decision by giving it to an adult person residing in the rental unit. I find DH was served in accordance with section 89(2) of the Act. Under this section of the Act, I can only proceed with the landlord's application pursuant to section 55 of the Act. In other words, I can only hear the landlord's application that relates to an order of possession.

I dismiss the landlord's application with leave to reapply that relates to a monetary order.

Issue to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Background and Evidence

The landlord's agent testified that the tenant DH was served with the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on September 12, 2021 by two methods. A copy was sent by registered mail and a copy was posted on the door of the rental unit on September 12, 2021. Filed in evidence is a Canada Post tracking number.

The landlord's agent testified at the time the Notice was issued the tenant had failed to \$11,550.00 in rent and the tenant has failed to pay any subsequent rent since the Notice was issued. The landlord seeks an order of possession of the rental unit.

Analysis

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

I find the tenant was deemed served with the Notice, three (3) days after it was posted to the door. I find the tenant was served on September 15, 2021. An additional copy was sent by registered mail and deemed to have been served on September 17, 2021.

The tenant has not paid the outstanding rent and did not apply to dispute the notice and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the landlord is 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.

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 landlord is granted an order of possession.

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: January 11, 2022

Residential Tenancy Branch