



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR, MNR-DR

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 filed by the Landlord for an order of possession and a monetary order for unpaid rent.

On December 14, 2021, the landlord’s application was considered, and the Adjudicator determined this matter should be heard by a participatory hearing and the matter was adjourned to today’s date, March 25, 2022.. The interim decision should be read in conjunction with this Decision as it contains finding of service on service of the landlord’s application.

Only the landlord’s agents appeared. The agents stated that they served the tenant with the interim decision, and notice of hearing as required by the December 14, 2021, interim decision. The agents stated that they sent the documents by registered mail sent on December 16, 2021. Filed in evidence is a copy of the envelope containing the Canada Post tracking number. I find the tenant was deemed served five(5) days after it was mailed.

Issue(s) to be Decided

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

Background and Evidence

The landlord’s agents testified that the property was purchase in September of 2018, and the tenant’s rent at that time was \$845.00 and the tenant’s security deposit of \$316.50 was transferred to them.

The landlord's agents testified that the tenant failed to pay rent for October 2021 and was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, (the "Notice") issued on October 21, 2021, by posting to the door of the rental unit on the same day, which was witnessed. The agents stated that the tenant did not pay the outstanding rent or dispute the Notice. The landlord is seeking an order of possession.

The landlord's agents testified that they have not be able to access the rental unit to determine if the tenant has left as the tenant has changed the lock. The agents stated that they have not received any rent since October 2021.

The landlord's agents testified that at today's hearing they are only requesting October 2021, unpaid rent and to offset this amount with the tenant's security deposit.

Analysis

Based on the testimony of the landlord's agents, I find that the tenant was served with a Notice by posting to the door on October 21, 2021. 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 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.

I find that the landlord has established a total monetary claim of **\$945.00** comprised of unpaid rent of \$845.00 and the \$100.00 fee paid by the landlord for this application.

I order that the landlord retain the security deposit of \$316.50 in partial satisfaction of the claim and I grant the landlord an order pursuant to section 67 of the Act, for the balance due of **\$628.50**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

I also find it appropriate to make the following Order as the tenant has change the lock to the rental unit without the consent of the landlord and the landlord has not been able to determine if the rental unit has been abandoned by the tenant.

At the hearing, I authorized the landlord that they can immediately have a locksmith attend to the rental unit and have the lock rekeyed or replaced as the tenant did not have the right to change the lock and not provide a key to the landlord. At this time the landlord can determine if the rental unit has been abandoned or if they need to enforce the order of possession.

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. The landlord is granted a monetary order for unpaid rent for October 2021 and may keep the security deposit in partial satisfaction of the claim. I grant a monetary order for the balance due.

The landlord is authorized to have a locksmith attend the rental unit and have the lock rekeyed or replaced.

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: March 25, 2022

Residential Tenancy Branch