



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession based on unpaid rent, for a monetary order for unpaid rent and parking fees and to recover the filing fee from the tenants.

The landlord attended the hearing. As the tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were served, by registered mail sent on February 16, 2022, Canada post tracking numbers were provided as evidence of service. I have noted the Canada Post tracking numbers on the covering page of this Decision.

The landlord testified that the tenants failed to pickup the packages as they were returned unclaimed. Section 90 of the Act determines that a document served in this manner is deemed to have been served, five days later. Refusal or neglect to pick up the packages does not override the deemed served provisions of the Act. I find that the tenants have been duly served in accordance with the Act.

The landlord further testified that when the packages were returned, they placed them through the tenants' mail slot, which the tenants acknowledged they got them.

The landlord gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

Issues to be Decided

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

Is the landlord entitled to a monetary order?

Background and Evidence

The tenancy began on July 1, 2019. Rent in the amount of \$2,000.00, plus \$25.00 for parking was payable on the first of each month. A security deposit of \$1,000.00 was paid by the tenants. Filed in evidence is a copy of the tenancy agreement.

The landlord testified that they served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on January 25, 2022, and served on January 26, 2022, by putting in in the tenants' mail slot.

The landlord testified that the tenants had failed to pay rent for January 2022 and parking fees for six months. Filed in evidence is a copy of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

The landlord testified that they had missed a previous hearing, which the tenants alleged they were trying to implement an illegal increase; however, they were having difficulties with the dial information at did not call into the hearing on time. At the hearing the tenant's had acknowledged that they received the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. I have noted the file number of this hearing on the covering page of the Decision.

The landlord testified the tenants did not pay the outstanding rent or parking and have failed to pay any subsequent rent for February, March, April and May 2022. The landlord seeks an order of possession and a monetary order for unpaid rent and parking.

Analysis

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

In this case, the tenants were served with the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, on January 26, 2022, by putting through their mail slot. I find the

tenants were deemed served three days later, January 29, 2022. I find the Notice complies with section 52 of the Act.

While I accept the tenants attempted to amend their original application at the hearing on March 17, 2022; however, that request to amend their application was denied as the tenants admitted they did not serve the landlord with that amendment. The tenants' application was dismissed, and the Arbitrator did not extend the statutory time limit to dispute the notice to end tenancy under the Act.

In this case, the tenants did not pay the outstanding rent or parking as required by the Act, within 5 days after receiving the notice to end tenancy. The tenants have further failed to pay all subsequent rent. I find the tenants have breached section 26 of the Act. I find the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, issued on January 25, 2022, is valid and remains in full force and effect. I find the tenancy has legally ended and the tenants are overholding the premises.

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 tenants. This order may be filed in the Supreme Court and enforced as an order of that Court. The **tenants are cautioned** that costs of such enforcement are recoverable from the tenants.

I find that the landlord has established a total monetary claim of **\$10,350.00** comprised of unpaid rent from January 2022 to May 2022 in the amount of \$10,000.00 and parking fees of \$250.00 and the \$100.00 fee paid by the landlord for this application. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenants are cautioned** that costs of such enforcement are recoverable from the tenants.

Conclusion

The tenants failed to pay rent. The landlord is granted an order of possession, and a monetary order in the above noted amount.

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: May 12, 2022

Residential Tenancy Branch