



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, for a monetary order for unpaid rent or utilities, and to recover the filing fee from the tenant.

Only the landlord's agent appeared, 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.

The Application for Dispute Resolution and Notice of Hearing was sent by registered mail, on April 14, 2023, which was returned unclaimed by the tenant. Refusal or neglect to pick up the package does not override the deemed served provisions on Act. I find the tenant was duly served in accordance with the Act. A Canada post tracking number was provided as evidence of service.

Issues to be Decided

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

Background and Evidence

The tenancy began on February 1, 2023. Rent in the amount of \$1,700.00 was payable on the first of each month. A security deposit of \$800.00 was not paid by the tenant at the start of the tenancy.

The landlord's agent testified that the tenant did not pay rent for March 2023 and was served with the Notice, by posting to the door of the rental unit on March 11, 2023. The landlord indicated that the Notice show \$2,500.00 owing; however, \$800.00 was for the unpaid security deposit. Filed in evidence is a photograph showing the Notice was posted to the door. Filed in evidence is a copy of the Notice.

The landlord testified that the tenant did not pay the outstanding rent within 5 days or dispute the Notice. The landlord stated that on March 26, 2023, they received from the tenant the amount of \$1,700.00, so no rent is owed for March 2023; however, the tenant failed to pay all of April 2023 as they only received \$1,500.00 leaving \$200.00 owed and the tenant has failed to pay rent for May 2023.

The landlord seeks an order of possession and a monetary order for rent owed of \$1,900.00.

Analysis

Based on the above, the undisputed 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 11, 2023, by posting to the door. 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.

While the Notice does not indicate when the rent was due on the Notice as this was omitted; however, clearly the tenant had to know or should have known this was for March 2023 rent, as it was issued on March 11, 2023, and as this was the tenant's only second month living in the rental unit. I find it appropriate to amend the Notice by adding the date March 1, 2023, pursuant to section 68 of the Act.

The tenant did not pay the outstanding rent within 5 days 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 the tenant failed to pay rent subsequent rent of \$200.00 for April and \$1,700.00 for May 2023. I find that the landlords is owed **\$2,000.00** comprised of unpaid rent, 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 **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

I further caution the tenant that they may be referred by any landlord to the Compliance and Enforcement Unit and may be the subject of an investigation and penalties could apply, if a pattern of failure to pay rent can be established.

Conclusion

The tenant failed to pay rent within 5 days 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, and a monetary order for the unpaid rent.

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 19, 2023

Residential Tenancy Branch