



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OP

Introduction

This hearing dealt with an application by the landlord for an order of possession. The hearing was conducted by conference call. The landlord's representative called in and participated in the hearing. Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on January 25, 2011 the tenant did not attend by calling into the conference call hearing.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

This tenancy began on May 1, 2010. The rent is \$1,300.00 due in advance on the first day of each month. A security deposit of \$650.00 was paid by the tenant at the start of the tenancy. The tenant was served with a one month Notice to End Tenancy for cause sent by registered mail on December 13, 2010. The Notice required the tenant to move out of the rental unit by January 31, 2011. The cause alleged was repeated late payment of rent. The tenant did not apply to dispute the Notice to End Tenancy. As of the date of the hearing the tenant has not moved out of the rental unit. He has not paid rent for February.

Analysis

Section 47 of the Act requires that upon receipt of a Notice to End Tenancy for cause the tenant must, within ten days, dispute the Notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. Failure to pick up a Notice sent by registered mail is not a valid reason for not applying to dispute a Notice to End Tenancy; section 90 of the *Residential Tenancy Act* provides that a document, including a Notice

to End Tenancy served by mail is deemed to have been received on the 5th day after it is mailed. The tenant has not applied to dispute the Notice and within the time allowed or at all and the tenant is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

Order of Possession - Based on the above background, evidence and analysis I find that the landlord is entitled to an order of possession 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 landlord may make a further application for a monetary order for unpaid rent or compensation.

Dated: February 09, 2011.
