



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR

Introduction

This is the Landlord's application for an Order of Possession for unpaid rent for the month of June, 2011.

The Landlord's agent gave affirmed testimony at the Hearing.

The Landlord's agent testified that 2 copies of the Notice of Hearing documents and copies of the Landlord's evidence were left in two separate envelopes, addressed to each of the Tenants, in the mail box at the rental unit on June 24, 2011.

Based on the affirmed testimony of the Landlord's agent, I am satisfied that the both of the Tenants were sufficiently served with the Notice of Hearing documents pursuant to the provisions of Section 71(2)(c) of the Act. Despite being served with the Notice of Hearing documents, the Tenants did not sign into the teleconference and the Hearing proceeded in their absence.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession?

Background and Evidence

The Landlord's agent gave the following testimony and evidence:

A copy of the tenancy agreement was provided in evidence. Monthly rent is \$980.00 per month, due the first day of each month.

On June 1, 2010, the Landlord's agent served the Tenants with a 10 Day Notice to End Tenancy for Unpaid Rent, by posting the Notice on the Tenants' door at the rental unit

on June 1, 2011 at 4:00 p.m. A copy of the Notice to End Tenancy and a Proof of Service of the Notice to End Tenancy were provided in evidence.

The Landlord's agent testified that the Tenants have paid some of the money due to the Landlord, but the Landlord did not reinstate the tenancy, and provided the Tenants with receipts for "use and occupancy only". The Landlord's agent testified that another Notice to End Tenancy was issued on July 2, 2011, for unpaid rent.

The Tenants remain in the rental unit.

Analysis

The tenancy agreement provides that rent is due on the first day of each month, which means that rent may be paid any time up to midnight on the first day of each month. Therefore, in this tenancy, the earliest date that the Landlord could issue a notice for unpaid rent would be the 2nd day of the month in which rent is due.

I find that the Notice is not a valid notice because at the time it was issued, the Tenants were not in arrears.

The Landlord was advised that I did not have an Application before me with respect to the Notice that was issued in July, and that therefore I could not consider any application for an Order of Possession based on that Notice.

Conclusion

The Landlord's application is dismissed. The tenancy remains in full force and effect until it is ended in accordance with the provisions of the Act.

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: July 14, 2011.

Residential Tenancy Branch