



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlord's application for an Order of Possession and Monetary Order for unpaid rent. The tenant did not appear at the hearing. The landlord testified that she personally served the tenant with the hearing documents on February 24, 2012 at the subject residential property. Based upon the undisputed evidence before me, I accepted that the tenant was served with the hearing documents as declared by the landlord and I proceeded to hear from the landlord without the tenant present.

Issue(s) to be Decided

1. Is the landlord entitled to an Order of Possession for unpaid rent?
2. Is the landlord entitled to a Monetary Order for unpaid rent?

Background and Evidence

The landlord provided the following undisputed information: The landlord purchased the residential property in March 2011 and the tenant was already in possession of the bachelor suite. There is no written tenancy agreement. The tenant is required to pay rent of \$450.00 on the last day of every month although the landlord has often accepted payment on the 1st or later. The tenant did not pay rent for February 2012 and on February 15, 2012 the landlord personally served two pages of a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) upon the tenant at the rental unit. The tenant did not pay the outstanding rent or dispute the Notice and continues to occupy the rental unit.

In filing this application the landlord requested an Order of Possession and a Monetary Order for the unpaid rent for February 2012. During the hearing, the landlord requested that she also be awarded loss of rent for the month of March 2012 and compensation for damage to the rental unit. I did not consider the landlord's request to recover the loss of rent for March 2012 or damage to the unit as the tenant was not present at the hearing and the landlord had not served the tenant or the Branch with an amended

application. Nor have I made any finding with respect to retention of the security deposit as the landlord did not request such and I did not hear whether one was paid by the tenant. The landlord is at liberty to make a subsequent application to seek recovery of loss of rent; any other damages or loss; and the security deposit, where applicable.

I permitted the landlord to submit a copy of the Notice as evidence even though she had not served that evidence upon the tenant. The Notice submitted by the landlord is dated February 15, 2012 and indicates \$450.00 was outstanding as of January 31, 2012. The landlord affirmed that she served the tenant with both pages of the Notice.

Analysis

I accept the undisputed evidence before me that the tenant was personally served with both pages of a 10 Day Notice on February 15, 2012 indicating the tenant owed the landlord \$450.00 in rent as of January 31, 2012.

Where a tenant receives a 10 Day Notice to End Tenancy the tenant has five days to pay the outstanding rent or file to dispute the Notice. If a tenant does not pay the outstanding rent or dispute the Notice within five days then, pursuant to section 46(5) of the Act, the tenant is conclusively presumed to have accepted the tenancy will end and must vacate the rental unit by the effective date of the Notice.

Although the Notice provided as evidence by the landlord does not indicate an effective date, pursuant to section 53 of the Act, I find the effective date is deemed and changed to read the earliest date possible under the requirements of the Act. Accordingly, I find the effective date of the Notice is deemed to read February 25, 2012 as this is 10 days after the Notice was received by the tenant.

Since the tenant did not pay the outstanding rent or dispute the Notice I find the tenancy ended February 25, 2012 and the landlord is entitled to regain possession of the rental unit. The landlord is provided an Order of Possession effective two (2) days after service upon the tenant.

Based upon the undisputed evidence before me, I find the landlord entitled to recover unpaid rent for the month of February 2012. I also award the landlord the \$50.00 filing fee paid for this application. Accordingly, the landlord is provided a Monetary Order in the amount of \$500.00. The landlord must serve the Monetary Order upon the tenant and may enforce it in Provincial Court (Small Claims) as necessary.

Conclusion

The landlord is provided an Order of Possession effective two (2) days after service upon the tenant. The landlord is provided a Monetary Order in the amount of \$500.00 to serve upon the tenant.

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 13, 2012.

Residential Tenancy Branch