



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding JOHNSON STREET RESIDENCES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, OPC, MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession based on unpaid rent, an order of possession based on a Notice to End Tenancy for cause, a monetary order for unpaid rent, and to recover the filing fee for the Application.

Only the Agent for the Landlord appeared at the hearing. They gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Agent for the Landlord testified they served the Tenant with the Notice of Hearing and Application documents and evidence in two ways. They sent these by registered mail, on May 23, 2014, and posted these to the door on May 23, 2014. Under the Act the Tenant was deemed served five days after mailing, and three days after posting to the door. Neglecting or refusing to accept registered mail is not a ground for review under the Act. I find the Tenant has been duly served under the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Matter

The Landlord had issued the Tenant a one month Notice to End Tenancy for cause; however, it was unnecessary to deal with the one month Notice, as the tenancy was ending under the 10 day Notice to End Tenancy for unpaid rent.

Issue(s) to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlord to an order of possession and monetary relief?

Background and Evidence

Based on the testimony of Agent for the Landlord, I find that the Tenant was served with a 10 day Notice to End Tenancy for non-payment of rent by sending it via registered mail on March 5, 2014 to the Tenant (the "Notice").

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 by filing an Application for Dispute Resolution.

There is no evidence before me that the Tenant disputed the Notice. Furthermore, the Agent for the Landlord testified that the Tenant had failed to pay the rent.

The Agent for the Landlord testified that the Tenant may have already vacated the rental unit; however, there was no notice from the Tenant or communication as to when the Tenant left the rental unit.

Analysis

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

The Tenant has not paid the outstanding rent 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.

Under section 26 of the Act, the Tenant must not withhold rent, even if the Landlord is in breach of the tenancy agreement or the Act, unless the Tenant has some authority under the Act to not pay rent. In this situation the Tenant had no authority under the Act to not pay rent.

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.

I find that the Landlord has established a total monetary claim of \$750.00 comprised of \$700.00 in unpaid rent and the \$50.00 fee paid by the Landlord for this application.

I grant the Landlord an order under section 67 for the balance due of \$750.00. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The Tenant failed to pay rent 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 is granted a monetary order for the balance due.

The Agent for the Landlord asked a question about the abandoned property of the Tenant; the Agent was referred to call an Information Officer.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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, 2014

Residential Tenancy Branch

