



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Wall Financial Corporation
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with a claim by the tenant for an order setting aside a notice to end this tenancy and a cross-application by the landlord for an order of possession and a monetary order. The tenant did not participate in the conference call hearing. The landlord's agents testified that they served their application for dispute resolution and notice of hearing on the tenant by posting those documents to the door of the rental unit.

Section 89 of the Residential Tenancy Act requires that an application for a monetary order be served on the respondent either personally or via registered mail. The same section permits an application for an order of possession to be posted on the door of the tenant's residence. I found that the landlord properly served the tenant with notice of their claim for an order of possession but did not properly serve him with their claim for a monetary order. I therefore advised the landlord that I would dismiss the claim for a monetary order with leave to reapply and the hearing proceeded to deal exclusively with their claim for an order of possession.

As the tenant did not appear at the hearing to advance his claim, his claim is dismissed without leave to reapply.

Issue to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

The landlord's undisputed evidence is as follows. The tenancy began in December 2002. Currently, the tenant is obligated to pay rent in the amount of \$1,320.00 per month in advance on the first day of each month. The tenant failed to pay rent on March 1, 2015 and on March 2, 2015, the landlord personally served him with a 10 day

notice to end tenancy for unpaid rent (the "Notice"). The tenant applied to dispute the Notice on March 9 and in his application for dispute resolution stated "don't have rent untill [sic] the 15th."

Analysis

I accept the landlord's undisputed testimony and I find that the tenant was obligated to pay \$1,320.00 in rent on the first day of March. I find that the tenant failed to pay the rent when it was due under the tenancy agreement and I find that the tenant received the Notice on March 2. The tenant did not prove that he had a legal reason to withhold rent on March 1 and I find that the landlord was justified in serving the Notice. I further find that as the landlord has received no rent since the Notice was served, the landlord has not reinstated the tenancy. I find that the landlord is entitled to an order of possession and I grant the landlord that order. The order must be served on the tenant. Should he fail to comply with the order, it may be filed in the Supreme Court and enforced as an order of that Court.

As the landlord has been successful in their claim, I find they should recover the \$50.00 filing fee paid to bring their application. The landlord may deduct \$50.00 from the security deposit. The balance of the deposit should be dealt with pursuant to the provisions of the Act once the tenant vacates the rental unit.

Conclusion

The tenant's claim is dismissed without leave to reapply. The landlord's claim for a monetary order is dismissed with leave to reapply. The landlord is granted an order of possession and will withhold \$50.00 from the security deposit.

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: April 13, 2015

Residential Tenancy Branch

