

DECISION

Dispute Codes OPR, MNDC, CNC, MT, FF

Introduction

This hearing dealt with cross Applications for Dispute Resolution.

The Landlord filed for an order of possession for unpaid rent, for compensation under the Act or tenancy agreement, and to recover the filing fee for the Application.

The Tenants applied for more time to dispute a Notice to End Tenancy for unpaid rent, to cancel a Notice to End Tenancy for cause, and for monetary claims for their personal property.

As described above, the Tenants filed their own Application, which was to be heard at the same time as the Landlord's Application. They had notice of the time and date of the hearing, and of the Landlord's claims. **However, the Tenants did not appear at the hearing and therefore, I dismiss their claim without leave to reapply.**

As the Landlord has a limited facility with English, he had an Agent at the hearing who provided affirmed testimony.

Issues(s) to be Decided

Is the Landlord entitled to the relief sought?

Background and Evidence

Based on the affirmed testimony of the Agent for the Landlord, I find that the Tenants were served with a Notice to End Tenancy for non-payment of rent.

The Tenants have not paid all the outstanding rent.

There was also a previous hearing, where the Landlord received an order of possession through an early end of tenancy Application.

The Tenants have vacated the rental unit.

Analysis

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

Although the Landlords are entitled to an order of possession in these circumstances, the Tenants have vacated the rental under an order of possession granted in an earlier hearing. Therefore, the Application for an order of possession is no longer required.

I find that the Tenants have failed to pay rent under the Act and tenancy agreement.

I find the Landlord has established a total monetary claim of **\$637.00** comprised of the balance of rent owed of \$587.00, and the \$50.00 fee paid by the Landlord for this application. I order that the Landlord retain the deposit of **\$150.00** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$487.00**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

It was explained to the Landlord and his Agent that they must use the abandonment provisions of the Regulations to deal with the personal property left behind by the Tenants.

The Landlord explained the Tenants are able to pick up their property, but have failed to do so on previous appointments as set up by the Landlord.

Conclusion

The Tenants were ordered to vacate the rental unit. Therefore, an Order of Possession is not required.

The Landlords are granted a monetary order for rent due, and may keep the security deposit and have leave to apply for further monetary compensation for damages to the unit.

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: October 30, 2009.

Dispute Resolution Officer