

DECISION

Dispute Codes MNR, MNDC, MNSD, OPR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail, sent on September 25, 2009, and deemed served five days later under the Act, the Tenants did not appear. I find the Tenants have been duly served under the Act.

The Agent for the Landlord appeared, and provided affirmed testimony and evidence in support of the Landlord's claim.

Issue(s) to be Decided

Have the Tenants breached the Act or tenancy agreement, entitling the Landlord to an Order of Possession and monetary relief?

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 and did not apply to dispute the Notice and are therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

The Tenants vacated the rental unit on October 5, 2009.

Analysis

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

Although the Landlord is entitled to an order of possession in these circumstances, the Tenants have vacated the rental unit and therefore, 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 **\$1,890.00** comprised of the rents owed for September and October of 2009, two \$25.00 NSF charges, and the \$50.00 fee paid for this application.

I order that the Landlord retain the deposit and interest of **\$447.50** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$1,442.50**.

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

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: November 09, 2009.

Dispute Resolution Officer