



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes - OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession and a monetary order due to unpaid rent.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an Order of Possession for unpaid rent; to a monetary Order for unpaid rent; and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to sections 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement for a month to month tenancy beginning on March 1, 2006 for the current monthly rent of \$866.74 due on the 1st of the month and security deposit of \$387.50 was paid on February 22, 2006; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on December 2, 2009 with an effective vacancy date of December 12, 2009 due to \$1201.96 unpaid rent.

Documentary and testimonial evidence filed by the landlord indicates that the tenants had failed to pay the full rent owed for the months of November, December, 2009 and January, 2010 in the amount of \$2,018.70 and that the tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent when it was served personally to the male tenant December 2, 2009.

The Notice states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The landlord testified that he had received payment in the amount of \$800.00. The tenants did not apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all evidence and accept that the tenants had been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenants on December 2, 2009, and the effective date of the notice is December 12, 2009. I accept the evidence before me that the tenants failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act*.

Based on the foregoing, I find that the tenants are conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

I find that the landlord is entitled to an Order of Possession effective **two days after service on the tenant**. This order must be served on the tenants and may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord is entitled to monetary compensation pursuant to Section 67 and therefore grant a monetary order in the amount of **\$1,268.70** comprised of \$1,218.70 rent owed and the \$50.00 fee paid by the Landlord for this application.

This order must be served on the tenants and 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: January 26, 2010.

Dispute Resolution Officer