



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, a monetary order for unpaid rent, an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

Although served with the Application for Dispute Resolution and Notice of Hearing by posting on the rental unit door on June 18, 2010, which was witnessed, the Tenants did not appear. I find the Tenants have been duly served under the Act.

The Landlord and two witnesses appeared, 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.

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 Landlord, I find that the Tenants were served with a Notice to End Tenancy for non-payment of rent on March 14, 2010, by personal service. The Notice informed the Tenants that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenants had five days to dispute the Notice.

One of the Tenants attempted to end the tenancy with a notice to end tenancy in March of 2010, however, I find that notice is invalid as it does not conform to the requirements of the Act, and furthermore, both Tenants continue to occupy the rental unit.

According to the evidence of the Landlord, the Tenants have not paid rent in 19 months.

Analysis

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

The Tenants have not paid 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, on March 25, 2010.

I find that the Landlord is entitled to an order of possession effective **at 1:00 p.m. August 13, 2010**. 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 **\$12,450.00** comprised of \$12,350.00 in unpaid rent and the \$100.00 fee paid by the Landlord for this application.

I order that the Landlord retain the deposit and interest of **\$331.53** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$12,118.47**

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: August 11, 2010.

Dispute Resolution Officer