



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNR, OPR

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession and a monetary order for unpaid rent. The Landlord originally applied under the Direct Request process, however, the Application was adjourned to a participatory hearing which was completed today.

I have allowed the Landlord to amend the Application to include a request for an order to retain the security deposit and pet deposit in partial satisfaction of the claims, and to recover the filing fee for the Application.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail, sent on July 2, 2010, and deemed served five days later under the Act, the Tenants did not appear. I find the Tenants have been duly served in accordance with the Act.

The Landlord appeared, gave affirmed testimony and was provided the opportunity to present 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 10 day Notice to End Tenancy for non-payment of rent, on June 11, 2010, by serving on adult who resides with the Tenants.

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 July 5, 2010.

Analysis

Based on the above, the uncontradicted 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 for June 2010, under the Act and tenancy agreement. I further find that the Tenants have also not paid rent for July 2010, and the Landlord will suffer a loss of rent for the month. Therefore, under section 64 of the Act I allow the Landlord's claim to be amended to include one additional month of rent, and the late fees as set out in the Tenancy Agreement.

Therefore, I find the Landlord have established a total monetary claim of **\$2,500.00** comprised \$2,400.00 for the rents owed for June and July of 2010, \$50.00 for two late payment fees, and the \$50.00 fee paid by the Landlord for this application. I order that the Landlord may retain the security and pet deposits of **\$1,200.00** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$1,300.00**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

The Landlord has leave to apply for further monetary orders.

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 17, 2010.

Dispute Resolution Officer