



Dispute Resolution Services

Page: 1

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

Both Tenants were served with the Application for Dispute Resolution and Notice of Hearing by registered mail, sent on June 30, 2010, and deemed served five days later under the Act. One Tenant did appear, however, this was following the conclusion of the hearing. The outcome was explained to the Tenant.

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 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 21, 2010, by posting on the door. 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.

The Tenants did not dispute the Notice to End Tenancy. The Landlord testified they had made some payments on the rent due, although all of the outstanding rent was not paid.

Analysis

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

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, July 3, 2010.

I find that the Landlord is entitled to an order of possession effective **two days** after service on the Tenants. 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 **\$2,870.00** comprised of \$2,820.00 in unpaid rents and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord retain the deposit and interest, paid December 1, 1990, according to the testimony of the Landlord, of **\$777.38** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$2,092.62**.

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 23, 2010.

Dispute Resolution Officer