



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, 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.

Although served with the Application for Dispute Resolution and Notice of Hearing in person on July 19, 2010, and by registered mail also sent on July 19, the Tenants did not appear.

An Agent for the Landlord appeared, gave affirmed testimony and was 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 Agent, I find that the Tenants were served with a Notice to End Tenancy for non-payment of rent on July 2, 2010, by posting on the door which was witnessed. 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 paid the rent due, however, this was some 11 days after service of the Notice, and the Tenants have failed to pay rent for September of 2010.

Analysis

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

The Tenants paid the outstanding rent past the five day period wherein the Notice would have been cancelled, have failed to pay rent for September 2010, 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 15, 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 **\$935.00** comprised of \$825.00 in rent, \$40.00 for two late fees, \$20.00 for two months of parking and the \$50.00 fee paid by the Landlord for this application. I order that the Landlord retain the deposit of **\$412.50** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$522.50**.

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

Conclusion

The Tenants failed to pay rent on time and did not file to dispute the Notice to End Tenancy. The Tenants are presumed under the law to have accepted that the tenancy ended on the effective date of the Notice to End Tenancy. The Landlord is granted an Order of Possession, may keep the security deposit in partial satisfaction of the claim and is granted a monetary order for the balance due.

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: September 07, 2010.

Dispute Resolution Officer