



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 and to recover the filing fee.

Although served with the Application for Dispute Resolution and Notice of Hearing by posting on the door on August 31, 2010 the Tenants did not appear.

The Landlord appeared, gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and 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

This tenancy began on December 1, 2009, on a fixed term basis for one year. Rent is \$800.00 per month, payable on the first day of each month, and a security deposit of \$400.00 was paid in November 2009.

Based on the affirmed testimony and evidence of the Landlord, I find that the Tenants were served with a One Month Notice to End Tenancy on August 4, 2010, by posting on the door. The Notice explains that the Tenants had ten days to dispute the Notice. It also explains that if the Tenants do not file an Application to Dispute the Notice within ten days, then the Tenants are conclusively presumed to have accepted the end of the tenancy and must vacate the rental unit by the effective date of the Notice. I note the effective date indicated on the Notice is ineffective and automatically corrects under the Act to September 30, 2010. The Tenants did not file an Application to dispute the Notice.

The Notice was served on the Tenants because the Landlord alleges the Tenants have made repeated late payments of rent, put the Landlord's property at significant risk, and that the Tenants have seriously jeopardized the health or safety or lawful right of another occupant or the Landlord.

The Tenants did not apply to dispute the Notice. The Landlord provided evidence and gave affirmed testimony that the Tenants have not paid all of the rent due and currently owe for August, September and now October for over holding in the rental unit.

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.

I find that the Landlord is entitled to an order of possession effective **at 1:00 p.m. on September 30, 2010** 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 **\$2,450.00** comprised of **\$2,400.00** in unpaid rent and the **\$50.00** fee paid by the Landlord for this application.

I order that the Landlord retain the deposit of **\$400.00** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$2,005.00**.

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 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 and interest in partial satisfaction of the claim and is granted a monetary order for the balance due of \$2,005.00.

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 29, 2010.

Dispute Resolution Officer