



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MND, MNR, FF

Introduction

This was an application by the landlord for a monetary order and an order for possession. The hearing was conducted by conference call. The landlord was represented by his agent. The tenants did not attend the hearing although they were served with the application and Notice of hearing sent by registered mail on October 8, 2010

Issues(s) to be Decided

Is the landlord entitled to an order for possession?

Is the landlord entitled to a monetary order and if so, in what amount?

Background and Evidence

The rental unit is a suite in the basement of the landlord's house in Surrey. The tenant began on June 15, 2009 for fixed term with rent in the amount of \$750.00 payable on the first of each month. The tenants paid a security deposit of \$360.00 at the start of the tenancy.

According to the sworn statement of the landlord the tenants' conduct justified ending the tenancy for cause. Based on incorrect advice the landlord gave the tenants a two month Notice to End Tenancy for landlord's use dated June 29, 2010. The Notice required the tenant to move out of the rental unit by August 31, 2010. The male tenant also signed a mutual agreement to end tenancy whereby he agreed to move out by noon on August 31, 2010.

The tenants refused to vacate the rental unit on August 31, 2010. As of the date of the hearing they continue to occupy the rental unit. The tenants have not paid rent since June, 2010. The landlord served the tenant with a 10 day Notice to End Tenancy for unpaid rent dated September 9, 2010. The Notice to End Tenancy was handed to the tenants by the landlord on September 9, 2010. The tenants did not apply to dispute the Notice to End Tenancy and that have not paid any rent in response to the Notice

Analysis and Conclusion

The tenants were served with a 10 day Notice to End Tenancy. They have not paid the outstanding rent and have not applied to dispute the Notice; they are therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. The effective date of the Notice was incorrectly stated to be September 9, 2010; it should have stated that the Notice would be effective on September 19, 2010. The *Residential Tenancy Act* contains provisions for the automatic correction of effective dates. The corrected date of the end of tenancy has passed. Based on the above facts I find that the landlord is entitled to an order for possession effective two days after service on the tenant. 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 claim for unpaid rent totalling \$2,250.00 for the months of July, August and September, 2010. The landlord is entitled to recover the \$50.00 filing fee for this application for a total claim of \$2,300.00. I order that the landlord retain the deposit and interest of \$360.00 and I grant the landlord an order under section 67 for the balance due of \$1,940.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.