



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord's agent. The tenants did not attend.

The landlord's agent provided confirmation that each of the adult tenants were served with notice of this hearing via registered mail. I accept that the tenants were served sufficiently for the purposes of this hearing.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent; to a monetary order for unpaid rent; for all or part of the security deposit and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a rental agreement which was signed by the parties on May 30, 2010 for a tenancy beginning on June 15, 2010 for the monthly rent of \$1,450.00 due on the 1st of the month and a security deposit of \$1,450.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on October 5, 2010 with an effective vacancy date of October 15, 2010 due to \$1,450.00 in unpaid rent.

Documentary evidence and testimony filed by the landlord indicates that the tenants failed to pay the full rent owed for the months of October and November 2010 and that the tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent personally on October 5, 2010 at 4:30 p.m. The landlord provided documentary evidence that one of the tenants acknowledged in writing that she was served at this time with the notice to end the tenancy.

The Notice states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not apply to dispute the Notice to End Tenancy within five days.

While the landlord's agent is not certain he believes the tenants may have vacated the rental unit on or before November 20, 2010.

Analysis

I have reviewed all documentary evidence and accept that the tenants have been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenants on October 5, 2010 and the effective date of the notice is October 5, 2010. I accept the evidence before me that the tenants failed to pay the rent owed in full with in the 5 days granted under section 46 (4) of the *Act*.

Based on the foregoing, I find that the tenants are conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

I find that the landlord is entitled to an Order of Possession effective **two days after service on the tenants**. This order must be served on the tenants and may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$2,950.00** comprised of \$2,900.00 rent owed and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$1,450.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$1,500.00**. This order must be served on the tenants and 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: December 02, 2010.

Dispute Resolution Officer