



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

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

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, 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

Based on the testimony of both parties, I find that the Tenants were served with a Notice to End Tenancy for non-payment of rent on December 2, 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 that the Tenants had five days to dispute the Notice. The Tenants did not pay the rent or file to dispute the Notice.

The Agent for the Landlord testified that there is \$442.50 in outstanding rent for November, \$1,290.00 in rent due for December of 2010, and \$1,290.00, in rent due for January 2011.

Analysis

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



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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 and the Agent for the Landlord consented to the order being effective at **1:00 p.m. on January 31, 2011**. 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 \$3,072.50, comprised of \$3,022.50 in rents due and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlord retain the deposit and interest of \$625.00 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$2,397.50**.

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: January 11, 2011.

Residential Tenancy Branch