



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 and a monetary order due to unpaid rent.

The hearing was conducted via teleconference and was attended by the landlord's agent and the male tenant.

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 parties agreed the tenancy began on July 15, 2010 as 1 year fixed term tenancy for a monthly rent of \$848.00 due on the 1st of each month and that a security deposit of \$411.50 was paid on July 15, 2010.

The landlord provided into evidence a copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on January 5, 2011 with an effective vacancy date of January 18, 2011 due to \$1,124.00 in unpaid rent.

The landlord indicates that the tenants failed to pay the full rent owed for the months of December 2010, January 2011 and February 2011 and that the tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent when it was posted to the rental unit door on January 5, 2011. The tenant acknowledged receipt of the notice.

The Notice states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The landlord testified the tenants did make a rental payment of \$450.00 but the total arrears remain at \$1,522.00. The tenants did not apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all evidence and accept that the tenant has been served with notice to end tenancy as declared by the landlord. The notice is deemed to have been received by the tenants on January 8, 2011 and the effective date of the notice is January 18, 2011. I accept the evidence before me that the tenants failed to pay the rent owed in full within 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. The landlord requested during the hearing that the order of possession take effect on February 28, 2011.

Conclusion

I find that the landlord is entitled to an Order of Possession effective **February 28, 2011 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 **\$1572.00** comprised of \$1,522.00 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 \$411.50 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$1,160.50**. 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: February 15, 2011.

Residential Tenancy Branch