



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes – OPR, MNR, FF

Introduction

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

The hearing was conducted via teleconference and was attended by two representatives for the landlord but neither of the tenants attended the hearing.

The landlord testified that the tenants were served in person with notice of this hearing in person on February 4, 2011 at 1:29 p.m.

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; and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 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 residential tenancy agreement which was signed by the parties on November 19, 2003 for a 6 month fixed term tenancy beginning on December 1, 2003 and converting to a month to month tenancy on June 1, 2004 for the current monthly rent of \$943.00 due on the 1st of each month and a security deposit of \$437.50 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on January 7, 2011 with an effective vacancy date of January 17, 2011 due to \$1,911.00 in unpaid rent.

Documentary evidence filed by the landlord indicates that the tenants had failed to pay the full rent owed for the months of December 2010 and January 2011 and that the tenants was served a 10 Day Notice to End Tenancy for Unpaid Rent when it was posted to the rental unit door on January 7, 2011 at 1:58 p.m. and that this service was witnessed by a third party.

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 that the tenants have also failed to pay rent for the month of February 2011. The landlord also notes the tenants made a payment on January 14, 2011. The landlord seeks a monetary order for rent for January and February 2011. The tenant did not apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all documentary evidence and testimony 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 January 10, 2011 and the effective date of the notice is amended to January 20, 2011, pursuant to Section 53 of the *Act*. 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.

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 and I grant a monetary order in the amount of **\$2,036.00** comprised of \$1,986.00 rent owed and the \$50.00 fee paid by the landlord for this application.

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 18, 2011.

Residential Tenancy Branch