

DECISION

Dispute Codes: OPR, MNR, MNDC and FF

Introduction

This application was brought by the landlord on March 9, 2011 seeking an Order of Possession pursuant to a 10-day Notice to End Tenancy for unpaid rent served by placement in the tenant's mail box on March 2, 2011. The landlord also sought a Monetary Order for the unpaid rent for March 2011.

Despite having been served with the Notice of Hearing, sent by registered mail on March 10, 2011, the tenants did not call in to the number provided to enable their participation in the telephone conference call hearing. Therefore, it proceeded in their absence.

Issues to be Decided

This application requires a decision on whether the landlord is entitled to an Order of Possession and a Monetary Order for the unpaid rent.

Background and Evidence

This tenancy began on January 1, 2007. Rent is \$800 per month and the landlord holds a security deposit of \$400.

During the hearing, the landlord gave evidence that the tenants had paid the outstanding rent on March 10, 2011.

Analysis

Section 26 of the *Act* provides that tenants must pay rent when it is due. Section 46 of the *Act* provides that a landlord may issue a Notice to End Tenancy for unpaid rent on a day after the rent is due. The tenant may cancel the notice by paying the overdue rent or make application to dispute the notice within five days of receiving it.

In this instance, as the notice was served by posting, I find that it was deemed to have been received three days later, March 5, 2011 under section 90 of the *Act*.

According to the landlord, the tenants paid the overdue rent on March 10, 2011 which is the fifth day after deemed receipt of the notice.

Therefore, the notice became of no effect under section 46(4)(a) of the *Act*.

Conclusion

Having found the Notice to End Tenancy having been rendered to be of no effect, it is set aside and the tenancy continues.

March 24, 2010