



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNSD, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlords for an order of possession, a monetary order and to recover the filing fee.

Although served with the Application for Dispute Resolution and Notice of Hearing in person on February 20, 2011, the Tenants did not appear.

The Landlords appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me.

Issue(s) to be Decided

Have the Tenants breached the *Residential Tenancy Act* or tenancy agreement, entitling the Landlords to an Order of Possession and monetary relief?

Background and Evidence

This tenancy began in February 2008, monthly rent is \$900.00 and a security deposit of \$450.00 was paid in February 2008.

The evidence and the affirmed testimony of the Landlords demonstrates that the Tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") on February 7, 2011, 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 the Tenants had five days to dispute the Notice. I note the effective move out date indicated on the Notice is ineffective and automatically corrects under the Act to February 20, 2011.

The Tenants did not apply to dispute the Notice. The Landlords provided affirmed testimony that the Tenants have not paid all of the rent due and currently owe unpaid rent for February in the amount of \$900.00. I have allowed the Landlords' request to amend their Application to include a claim for the rent of March 2011 in the amount of \$900.00.

Analysis

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

The Tenants have not paid the outstanding rent and did not apply to dispute the Notice and they 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 Landlords are entitled to an order of possession effective **2 days** after service on the Tenants. This order may be filed in the Supreme Court and enforced as an order of that Court.

I find that the Landlords have established a total monetary claim of **\$1,850.00** comprised of **\$1,800.00** in unpaid rent and the **\$50.00** fee paid by the Landlords for this application.

I order that the Landlords retain the deposit of **\$450.00** in partial satisfaction of the claim and I grant the Landlords an order under section 67 for the balance due of **\$1,400.00**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The Landlords are granted an Order of Possession, may keep the security deposit and interest in partial satisfaction of the claim and are granted a monetary order for the balance due of **\$1,400.00**.

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: March 01, 2011.

Residential Tenancy Branch