



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, a monetary order for unpaid rent and to recover the filing fee.

All 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

The Landlord gave affirmed testimony and supplied evidence that the Tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") on March 4, 2010, by posting on the door. The Tenants did not dispute that the Notice was posted on the door, but stated they did not receive it until much later as they were out of town.

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 date indicated on the Notice is April 1, 2011.

The Landlord testified that the monthly rent is \$1,300.00, that the Tenants failed to pay rent in March 2011, and that the current unpaid rent is \$1,300.00.

The Tenants did not dispute this amount, and stated that the March rent was ready when the Landlord comes by to collect it. The Tenants also stated they would move out by April 1, 2011.

Analysis

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

I find the Tenants have not paid the outstanding rent owed to the Landlord and failed to apply to dispute the Notice, and therefore, are conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice, on April 1, 2011.

I find that the Landlord is entitled to an order of possession effective **2 days after service upon the Tenants**. 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 **\$1,350.00** comprised of unpaid rent of **\$1,300.00** and the **\$50.00** fee paid by the Landlord for this application.

I allow the Landlord to retain the security deposit of \$600.00 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$750.00**.

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

Conclusion

The Landlord is granted an Order of Possession and a monetary order for the amount of \$750.00..

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 23, 2011.

Residential Tenancy Branch