



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, MNSD, OPR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlords for an order of possession, a monetary order for unpaid rent, an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

Although served with the Application for Dispute Resolution and Notice of Hearing in person on May 11, 2011, and after having provided documentary evidence, the Tenants did not appear. I find the Tenants have been duly served under the Act.

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

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

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

Background and Evidence

The Landlords testified that on May 2, 2011, the Tenants gave them verbal notice that they would be vacating the rental unit at the end of May, 2011. The Landlords testified that the Tenants went away for a few days and did not pay May rent. When the Tenants returned on May 5, 2011, the Landlords served them with a 10 day Notice to End Tenancy for unpaid rent.

The Tenants vacated the rental unit on May 15, 2011.

The Landlords claim \$100.00 for outstanding April rent, \$1,150.00 for May rent, \$1,150.00 for June rent, and \$50.00 for the filing fee for the Application. The Landlords are holding the Tenants' security deposit of \$575.00, which was paid to the Landlords in 2009.

Analysis

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

Although the Landlords are entitled to an order of possession in these circumstances, the Tenants have vacated the rental unit and therefore, an order of possession is no longer required.

The Tenants verbal notice was ineffective to end the tenancy and the Landlords were not required to accept the verbal notice. However, the Landlords acted in accordance with the Act and ended the tenancy using the 10 day Notice to End Tenancy for unpaid rent. I find it was the 10 day Notice to End Tenancy which ended the tenancy, and therefore, the Landlords are not entitled to June rent.

I find that the Tenants have failed to pay rent for April and May of 2011, and have breached the Act and tenancy agreement.

I find the Landlords have established a total monetary claim of **\$1,300.00** comprised of the balance of rent owed for April and May, and the \$50.00 fee paid by the Landlord for this application.

I order that the Landlords retain the deposit and interest of **\$575.00** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$725.00**.

This order 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: June 08, 2011.

Residential Tenancy Branch