



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession for unpaid rent.

Both 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.

I note that the parties have been involved in several prior Dispute Hearings and there is an Application for a monetary claim being made by the Tenants to be heard in September of 2011.

Issue(s) to be Decided

Have the Tenants breached the Act or tenancy agreement, entitling the Landlord to an Order of Possession?

Background and Evidence

The Agent for the Landlord testified that on May 6, 2011, he personally served the Tenants with a 10 day Notice to End Tenancy for unpaid rent in the amount of \$1,200.00. The Agent provided a signed proof of service form, indicating that the service had been witnessed by the Landlord on that date.

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.

The Agent testified that the Tenants are not occupying the rental unit, yet they still have personal property in the rental unit which they refuse to remove. The Landlord submits and provided evidence that the rental unit is being vandalized because the Tenants are not in the property. The Landlord also provided photographs showing chemicals on the property which he alleges are being used to make illegal drugs.

In reply, the Tenants dispute service, testifying they have not been served with the 10 day Notice to End tenancy. Nonetheless, the Tenants agree they have not paid rent for May, or June, of 2011.

The Tenants testified that they are not paying rent because they have not lived in the rental unit since early April, when the building was apparently condemned.

The Tenants testified they are not going to pay rent on a rental unit they are unable to occupy. However, the Tenants also testified they are unable to remove their possessions from the rental unit because their car is too small.

They further testified they had an order from a Dispute Resolution Officer that they could stay in the rental unit until September of 2011. Lastly, the Tenants allege they contracted cancer due to the rental unit.

Analysis

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

I accept the evidence of the Agent and the Landlord that the Tenants were served with the Notice to End Tenancy, as I find that the Tenants' testimony lacked veracity.

I find the Tenants have not paid the rent for May and did not apply to dispute the Notice and 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, on May 23, 2011.

Despite supplying this Officer with the file numbers of prior Disputes, the Tenants have no evidence of an order allowing them to remain in the rental unit until September of 2011.

Therefore, I find that the Landlord is entitled to an order of possession effective **at 1:00 p.m. June 9, 2011**. This order may be filed in the Supreme Court 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