



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNR, MNDC, MNSD, OPB OPC, OPR

Introduction

A substantial amount of documentary evidence and written arguments has been submitted prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the applicant the opportunity to testify at the hearing.

The applicant(s) testified that the respondent(s) were served with notice of the hearing by registered mail that was mailed on August 16, 2011, however the respondent(s) did not join the conference call that was set up for the hearing.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is a request for an Order of Possession based on the Notice to End Tenancy for non-payment of rent, a request for a monetary order in the amount of \$4425.00, a request for recovery of the filing fee of \$50.00, and a request to retain the full security deposit towards this claim.

Background and Evidence

The applicants testified that:

- The tenants failed to pay the August 2011 rent and therefore on August 2, 2011 a 10 day Notice to End Tenancy was posted on their door.

- The tenants had failed to pay the outstanding rent or vacate the rental unit by August 12, 2011 and therefore they applied for a dispute resolution hearing.
- They have subsequently received the August 2011 rental payment by mail however they are accepting that for use and occupancy only.
- They are therefore requesting an Order of Possession for as soon as possible, as the September 2011 rent is now well past due, and an order for the outstanding September rent of \$1450.00.
- They are also requesting an order for possible lost rental revenue for the month of October 2011 in the amount of \$1450.00.
- They are also requesting recovery of the \$50.00 filing fee.

Analysis

It is my decision that I will allow the landlords request for an Order of Possession, because the tenant was served with a proper 10 day notice for non-payment of rent and did not pay that rent within the five day grace period. The tenant is therefore conclusively presumed to have accepted the end of the tenancy.

I will also allow the landlords request for the outstanding September 2011 rent as it is well past due.

I will not allow the request for possible rental loss for October 2011 at this time, as this claim is premature because it's possible that the rental unit will be re-rented for the month of October 2011.

I will order recovery of the filing fee.

Conclusion

I have issued an Order of Possession that is enforceable two days after service on the tenants.

I have allowed \$1500.00 of the monetary claim and therefore I order that the landlords may retain the full security deposit of \$725.00 and I have issued a monetary order in the amount of \$775.00.

I dismissed with leave to reapply the claim for lost rental revenue for October 2011.

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: September 14, 2011.

Residential Tenancy Branch