



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OPR MNR MNSD FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. The hearing was conducted by conference call. The landlord's agent called in and participated in the hearing. The tenants did not appear although they were personally served with the Application for Dispute Resolution and Notice of Hearing on September 9, 2011.

Issues

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Is the landlord entitled to an order allowing retention of the security deposit?

Background and Evidence

This tenancy began on September 1, 2010. The rent is \$900.00 due in advance on the first day of each month. The tenants paid a security deposit of \$450.00 at the start of the tenancy. The tenants did not pay rent the full rent for July when it was due; there is a shortfall of 480.00 for July. The tenants have paid no rent for August, September or October. On August 9, 2011 the landlord served the tenants with a Notice to End Tenancy for non-payment of rent by posting it to the door of the rental unit. The tenants have not paid rent for August, September or October and they did not file an application to dispute the Notice to End Tenancy. The tenants moved out of the rental unit on October 3, 2011. They caused serious damage to the rental unit and it will not be able to be re-rented for any part of October

Analysis and Conclusion

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted

that the tenancy ended on the effective date of the Notice. the tenants have vacated and an order for possession is no longer required

Monetary Order and Security Deposit - I find that the landlord has established a total monetary claim of \$1,880.00 for the outstanding rent for July, August and September. I award the landlord loss of revenue for October in the amount of \$900.00. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$2,830.00. I order that the landlord retain the deposit and interest of \$450.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$2,380.00. This order may be filed in the Small Claims Court and enforced as an order of that Court. The landlord has leave to reapply to claim for damage, repair and cleaning costs as well as additional loss of revenue .

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: October 11, 2011.

Residential Tenancy Branch