



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OP MNR 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 called in and participated in the hearing. She was assisted by a translator. The tenants did not appear although they were personally as served with the Application for Dispute Resolution and Notice of Hearing on September 20, 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 December 1, 2010. The rent is \$800.00 due in advance on the first day of each month. The tenants are also responsible for paying 40% of the utilities. The tenants paid a security deposit of \$400.00 on November 28, 2010. The tenants did not pay the full amount of rent for August. The landlords personally served the tenants with a 10 day Notice to End Tenancy for unpaid rent on September 7, 2011. The Notice alleged that \$1,400.00 of rent was outstanding and the tenants were required to move out by September 17th. The tenants have made the following payments from August to the date of the hearing:

- August: \$200.00
- September 23rd: \$200.00
- September 24th: \$280.00
- October 1st: \$280.00
- October 13th: \$200.00

The tenants have not paid full rent for August, September or October and they did not file an application to dispute the Notice to End Tenancy. The tenants currently owe \$1,240.00 for rental arrears including rent for October.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenants 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 tenants do neither of these two things, the tenants are conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

Order of Possession - Based on the above background, evidence and analysis I find that the landlord is entitled to an order of possession effective two days after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

Monetary Order and Security Deposit - I find that the landlord has established a total monetary claim of \$1,240.00 for the outstanding rent for August, September and October. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$1,290.00. I order that the landlord retain the deposit and interest of \$400.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$890.00. This order may be filed in the Small Claims 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: October 18, 2011.

Residential Tenancy Branch