



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF, CNC, MNDC

Introduction

This hearing was convened in response to applications by the tenants and the landlords.

The tenants' application is seeking orders as follows:

1. Cancel a notice to end tenancy for unpaid rent;
2. Monetary order for money owed or compensation; and
3. Recover filing fee from the landlord.

The landlord's application is seeking orders as follows:

1. An order for possession;
2. A monetary order of unpaid rent; and
3. Recover filing fee from the tenant.

This tenants' application was set for hearing by telephone conference call at 2:00 P.M. on this date. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the landlords. Therefore, as the tenants did not attend the hearing by 2:10 P.M., and the landlords appeared and were ready to proceed, I dismiss the tenants' application without leave to reapply.

The tenants were served with the landlords' Application for Dispute Resolution and Notice of Hearing by registered mail on November 15, 2011, and as set out above the tenants did not appear. I found the tenants have been duly served in accordance with the Act, and the hearing proceeded on the landlords' application.

The landlords 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.

Issue(s) to be Decided

Are the landlords entitled to an order of possession?

Are the landlords entitled to a monetary order for unpaid rent?

Background and Evidence

Based on the testimony of the landlord, I find that the tenants were served with a notice to end tenancy for non-payment of rent on November 1, 2011, by posting it to the door of the rental unit. The notice informed the tenants that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenant had five days to dispute the notice. The tenants did file an application to dispute the notice. However, it was not within the required time under the Act. The tenants did not appear at the scheduled hearing.

The landlord testified that the tenancy began on August 15, 2011. Rent in the amount of \$1,400.00 per month was payable on the first of each month. The tenants paid a security deposit in the amount of \$700.00.

The landlord testified that the tenants have not paid rent for September, October and November 2011, and is seeking compensation in the amount of \$4,200.00.

Analysis

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

Although the tenants did dispute the notice to end tenancy, the tenants did not appear and the tenants have not paid the outstanding rent in accordance with Section 46 of the Act.

I find that the landlords are entitled to an order of possession.

I find that the landlords are entitled to a monetary order for unpaid rent in the amount of \$4,250.00 and as the landlords have been successful with their application, I grant the recovery of the filing fee in the amount of \$50.00.

I order that the landlords retain the security deposit and interest of \$700.00 in partial satisfaction of the claim and I grant the landlords an order under section 67 for the balance due of \$3,550.00.

Conclusion

I find that the landlords are 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.

I find that the landlords have established monetary order for unpaid rent and utilities, and may keep the security deposit and interest.

I grant the landlords leave to apply for further monetary compensation.

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: November 14, 2011.

Residential Tenancy Branch