



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, OPR, FF

Introduction

This hearing dealt with an application by the landlords for an order of possession and a monetary order. Both parties participated in the conference call hearing.

Issues to be Decided

Is the landlord entitled to an order of possession?
Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The parties agreed that the tenants are obligated to pay \$1,800.00 per month in rent and that no rent was paid in the month of December 2011. The parties further agreed that on December 3 the tenants were served with a 10 day notice to end tenancy for unpaid rent. The tenants claimed that the landlord served only the first page of the notice. The landlords acknowledged that this might be the case.

Analysis

Although the tenants claimed that the unit requires repairs and that they have suffered losses, section 26 of the Act provides that tenants must pay rent when it is due regardless of whether the landlord complies with the Act or tenancy agreement. I find that the tenants did not have the right to withhold their rent and I find that the landlords are entitled to recover the unpaid rent for December. I award the landlords \$1,800.00.

On or about December 19, the landlords amended their claim to include a claim for damage up to \$4,999.00. The landlords provided no oral or documentary evidence to support a claim for damages and I therefore dismiss that claim.

I am not satisfied on the evidence that the landlord served both pages of the 10 day notice to end tenancy. The notice is designed to provide tenants with information about their rights and obligations under the Act and because I am not satisfied that the second

page of the notice was served, I find that the notice was ineffective to end the tenancy. I dismiss the landlords' claim for an order of possession. The landlords are free to serve the tenants with another notice to end tenancy.

As the landlords have been partially successful, I find that they should recover the filing fee paid to bring their application and I award them \$50.00. I grant the landlords a monetary order under section 67 for \$1,850.00.

Conclusion

The claim for an order of possession is dismissed and the landlords are granted a monetary order for \$1,850.00.

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: December 30, 2011

Residential Tenancy Branch