



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's application for an Order of Possession for cause; a Monetary Order for unpaid rent for December 2011; and, authorization to retain the security deposit. The tenants did not appear at the hearing. The landlord provided registered mail receipts to show that each tenant was served with the hearing documents by registered mail sent to the rental unit on December 12, 2011. The landlord testified that the tenants continue to occupy the rental unit. Having been satisfied the tenants have been sufficiently served with notice of this hearing I proceeded to hear from the landlord without the tenants present.

Issue(s) to be Decided

1. Is the landlord entitled to an Order of Possession for cause?
2. Is the landlord entitled to recover unpaid rent for December 2011?
3. Is the landlord authorized to retain the tenants' security deposit?

Background and Evidence

The co-tenancy commenced October 1, 2010. The tenants are required to pay rent of \$1,000.00 on the 1st day of every month. The tenants paid a \$500.00 security deposit. The landlord posted a 1 Month Notice to End Tenancy for Cause (the Notice) on the tenants' door on November 23, 2011. The Notice has an effective date of December 31, 2011. The tenants did not apply to dispute the Notice. The tenants paid only \$500.00 of rent due for December 2011.

The landlord is seeking an Order of Possession effective December 31, 2011 to ensure the tenants return vacant possession of the rental unit pursuant to the 1 Month Notice. The landlord provided a copy of the Notice as evidence for this proceeding.

The landlord is seeking to recover the unpaid rent of \$500.00 still owed by the tenants for December 2011 and requested retention of the security deposit in satisfaction of the unpaid rent. The landlord also requested recovery of the filing fee paid for this application.

Analysis

When a tenant receives a 1 Month Notice the tenant has 10 days to apply to dispute the Notice. If a tenant does not apply to dispute the Notice then, pursuant to section 47(5) of the Act, the tenant is conclusively presumed to have accepted the tenancy will end and must vacate the rental unit by the effective date of the Notice.

Since the tenants did not apply to dispute the Notice I find the tenancy shall end on December 31, 2011. The landlord's request for an Order of Possession effective December 31, 2011 is granted. With this decision the landlord is provided an Order of Possession to serve upon the tenants and enforce if necessary.

I find the landlord entitled to recover unpaid rent of \$500.00 for the month of December 2011. I also award the landlord the filing fee paid for this application since the tenants did not have the authority to withhold part of the rent owed for December 2011. I authorize the landlord to retain the tenants' security deposit in partial satisfaction of the amounts awarded to the landlord.

In light of the above, the landlord is provided a Monetary Order calculated as follows:

| | |
|---------------------------|-----------------|
| December 2011 unpaid rent | \$ 500.00 |
| Filing fee | 50.00 |
| Less: security deposit | <u>(500.00)</u> |
| Monetary Order | \$ 50.00 |

The landlord must serve the Monetary Order upon the tenants and may enforce it in Provincial Court (Small Claims) as necessary.

Conclusion

The landlord is provided an Order of Possession effective December 31, 2011 at 1:00 p.m. The landlord is authorized to retain the tenants' security deposit in satisfaction of the rent owed for December 2011 and is provided a Monetary Order in the amount of \$50.00 to recover the filing fee paid for this application.

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 22, 2011.

Residential Tenancy Branch