



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlords for an order of possession and a monetary order for unpaid rent. The Application began as a direct request, however, it was changed to an in person hearing. Therefore, I have allowed the Landlords to amend their Application to include a request for an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

The Tenant was served with the Application and Notice of Hearing by posting on the door. However, the Tenant did not appear at the hearing. The Landlord who appeared at the hearing testified that the Tenant has vacated the rental unit, therefore, an order of possession is no longer required.

One of the Landlords appeared, gave affirmed testimony and was 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

Has the Tenant breached the Act or tenancy agreement, entitling the Landlords to monetary relief?

Background and Evidence

Based on the testimony of the appearing Landlord, I find that the Tenant was served with a 10 day Notice to End Tenancy for non-payment of rent on November 4, 2011.

The Notice informed the Tenant that she had five days to pay the rent and the Notice would be cancelled, or five days to file an Application to dispute the Notice.

The Tenant did not paid all the outstanding rent and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice, November 14, 2011.

The Landlord stated the Tenant vacated the rental unit on or about November 30, 2011.

The Landlords also claim against the Tenant for unpaid utility bills.

Analysis

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

Although the Landlords are entitled to an order of possession in these circumstances, the Tenant vacated the rental unit and therefore, an order of possession is no longer required.

I find that the Tenant failed to pay rent under the Act and tenancy agreement.

I find the Landlords have established a total monetary claim of **\$1,100.00** comprised of the rent owed for November 2011 and the \$50.00 fee paid for this application.

I order that the Landlords retain the deposit of **\$500.00** in partial satisfaction of the claim and I grant the Landlords an order under section 67 for the balance due of **\$600.00**

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

I find that the Landlords had insufficient evidence to prove the utility bill amounts, and I dismiss this claim, with leave to reapply for further orders.

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 01, 2011.

Residential Tenancy Branch