



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, OPR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, and a monetary order for unpaid rent.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on January 31, 2012, a Canada post tracking number was provided as evidence of service, the tenants did not appear.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenants have been duly served in accordance with the Act.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?
Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

Based on the affirmed testimony of the landlord's agent, I find that the tenants were served with a Notice to End Tenancy for non-payment of rent. The tenants have not paid all the outstanding rent and did not apply to dispute the Notice and are therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice. The tenants vacated the rental unit on February 12, 2012.

The landlord's agent testified that the tenants have not paid any rent for January 2012 and February 2012. Filed in evidence is a copy of the tenant's ledger.

Analysis

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

Although the landlord is entitled to an order of possession in these circumstances, the tenants have vacated the rental unit and therefore, an order of possession is no longer required.

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

I find the landlord has established a total monetary claim of **\$2,170.00** comprised of rent owed for January 2012 and February 2012, and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the deposit and interest of **\$525.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$1,645.00**.

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

Conclusion

The tenants failed to pay rent and did not file to dispute the Notice to End Tenancy, and vacated the rental unit. Therefore, an order of possession is not required.

The landlord is granted a monetary order for rent due, and may keep the security deposit and interest.

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: February 16, 2012.

Residential Tenancy Branch