



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPR, MNR

Introduction

This hearing dealt with an application by the tenants for an order setting aside a notice to end this tenancy and a cross-application by the landlords for an order of possession and a monetary order. Despite having been personally served with the landlords' application for dispute resolution and notice of hearing on March 16, the tenants did not participate in the conference call hearing.

As the tenants did not participate in the hearing to present their claim, the claim is dismissed without leave to reapply.

At the hearing the landlords withdrew their claim for a monetary order.

Issue to be Decided

Are the landlords entitled to an order of possession?

Background and Evidence

The landlords' undisputed testimony is as follows. The tenants are obligated to pay \$875.00 in rent in advance on the first day of each month. They failed to pay all of their rent in the months of January, February and March 2012 and on March 9 the landlords personally served them with a 10 day notice to end tenancy for unpaid rent (the "Notice"). The tenants eventually paid the rental arrears on March 23 and the landlords issued them a receipt for use and occupancy only.

Analysis

I accept the undisputed evidence of the landlords and I find that the tenants were served with the Notice on March 9. They did not pay the arrears within 5 days of the time they received the Notice and although they failed to dispute the Notice, they did not appear for their application. I find that pursuant to section 46(5) of the Act, the tenants are conclusively presumed to have accepted that the tenancy ended in accordance with

the Notice. I find that the landlords have not reinstated the tenancy by accepting rent. I find that the landlords are entitled to an order of possession and I grant them that order. It must be served on the tenants and may be filed in the Supreme Court for enforcement in the event the tenants do not comply with the order.

I find that the landlords are entitled to recover the \$50.00 paid to bring their filing fee and I award them that sum. They may deduct \$50.00 from the security deposit.

Conclusion

The tenants' claim is dismissed. The landlords are granted an order of possession and may deduct \$50.00 from the security deposit to recover the filing fee.

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: March 30, 2012

Residential Tenancy Branch