



Dispute Resolution Services

Page: 1

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 Landlord for an order of possession based on a Notice to End Tenancy for unpaid rent, a monetary order for unpaid rent and to recover the filing fee for the Application.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Have the Tenants breached the Act or tenancy agreement, entitling the Landlord to an Order of Possession and monetary relief?

Background and Evidence

Based on the testimony of the parties, I find that the Tenants were served with a 10 day Notice to End Tenancy for non-payment of rent on February 8, 2012, by posting on the door. The Notice informed the Tenant that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenant had five days to dispute the Notice. The effective date of this Notice was February 23, 2012.

The Agents for the Landlord testified that the Tenants owe \$1,522.00 for two months of rent at \$761.00 each.

The Tenants were also served with a one month Notice to End Tenancy for repeated late payment of rent and breach of the tenancy agreement, on February 10, 2012, by personal service. The effective date of this Notice was March 31, 2012.

The Agents for the Landlord testified that the Tenants were audited and found that they had undeclared income. They had been charged for arrears of rent in the amount of \$1,052.00. The Agents for the Landlord also testified that there are other amounts owed by the Tenants.

The Tenants testified that they did not file Applications to dispute either Notice.

Analysis

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

The Tenants have not paid all the outstanding rent and did not apply to dispute the 10 day 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.

Furthermore, the Tenants did not dispute the one month Notice to End Tenancy and therefore, the tenancy has ended by operation of the law.

Therefore, I find that the Landlord is entitled to an order of possession effective **two days** after service on the Tenants. This order may be filed in the Supreme Court and enforced as an order of that Court.

I further find that the Landlord has established a total monetary claim of **\$2,624.00**, comprised of rent in the amount of \$1,522.00, audit arrears of \$1,052.00 and the \$50.00 fee paid by the Landlord for this application. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

The Landlord has leave to apply for further monetary orders.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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: April 18, 2012.
