



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 the landlord's application for an Order of Possession and Monetary Order for unpaid rent. The tenants did not appear at the hearing. The landlord testified that he sent the hearing documents to each tenant at the rental unit via registered mail on June 29, 2012. The landlord confirmed the tenants continue to reside in the rental unit and the registered mail was not returned to him. The landlord verbally provided registered mail tracking numbers as proof of service. I was satisfied the tenants were sufficiently served and I proceeded to hear from the landlord without the tenants present.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order for unpaid rent and/or loss of rent?

Background and Evidence

The tenancy commenced July 1, 2009 and the tenants paid a \$500.00 security deposit. The tenants are required to pay rent of \$1,000.00 on the 1st day of every month. The tenants failed to pay rent when due for June 2012 and on June 15, 2012 the landlord posted a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) on the door of the rental unit. The Notice indicates \$1,000.00 was outstanding as of June 1, 2012 and had a stated effective date of June 25, 2012. The tenants did not file to dispute the Notice. The tenants paid the landlord \$1,500.00 on July 1, 2012.

In filing this application the landlord requested recovery of unpaid rent and loss of rent for June and July 2012 in the total amount of \$2,000.00. Considering the tenants paid \$1,500.00 on July 1, 2012 the landlord reduced his claim to \$500.00. The landlord requested an Order of Possession to be effective two (2) days after service.

The landlord provided a copy of the 10 Day Notice as evidence for this proceeding.

Analysis

When a tenant receives a 10 Day Notice the tenant has five days to pay the outstanding rent to nullify the Notice or the tenant has five days to dispute the Notice by filing an Application for Dispute Resolution. If a tenant does not pay the outstanding rent or dispute the Notice within five days then, pursuant to section 46(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 Notice was posted on the door it is deemed to be received by the tenants three days later. Accordingly, the effective date automatically changes to read June 28, 2012 pursuant to section 53 of the Act.

Having heard the tenants did not pay the outstanding rent and did not file to dispute the Notice within five days of receiving the Notice I find the tenancy ended on June 28, 2012 and the landlord is entitled to regain possession of the rental unit. Provided with this decision is an Order of Possession effective two (2) days after service upon the tenants.

Based on the undisputed evidence before me, I find the landlord entitled to recover unpaid rent and/or loss of rent of \$500.00 for the months up to and including July 2012. I also award the landlord the \$50.00 filing fee paid for this application.

In light of the above, the landlord is provided a Monetary Order in the amount of \$550.00 to serve upon the tenants and enforce as necessary. The security deposit remains in trust for the tenants to be administered in accordance with the Act.

Conclusion

The tenancy has ended for unpaid rent. The landlord has been provided an Order of Possession effective two (2) days after service upon the tenants. The landlord has been provided a Monetary Order in the amount of \$550.00 to serve upon the tenants and enforce as necessary. The security deposit remains in trust, to be administered in accordance with the Act.

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: July 18, 2012.

Residential Tenancy Branch