



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim.

Although deemed served with the Application for Dispute Resolution and Notice of Hearing by *registered mail sent on July 18, 2012, Canada post tracking numbers were 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 tenant has been duly served in accordance with the Act.

The landlord's agent gave 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

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

Is the landlord entitled to a monetary order?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Is the landlord entitled to recover the cost of the filing fee?

Background and Evidence

Based on the testimony of the landlord's agent, I find that the tenants were served with a notice to end tenancy for non-payment of rent on July 4, 2012, by posting to the door of the residence. The notice informed the tenant that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenants had five days to dispute the notice.

The landlord's agent testified that the tenants did not pay all rent owed for July 2012 and the tenants have not paid any rent for August 2012. The landlord seeks to recover unpaid rent in the amount of \$7,000.00.

The landlord's agent testified that they are requesting to recover the administrative fees for late payment of rent for July 2012, and August 2012, at the rate of \$50.00 for each late payment. The landlord seeks to recover \$100.00.

Analysis

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

The tenants have not paid 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.

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.

Under Part 1 of the Residential Tenancy Regulations, the landlord may charge a administrated fee for late payment of rent, however, the amount shall not exceed \$25.00.

I find that the landlord has established a total monetary claim of \$7,150.00 comprised of unpaid rent for July 2012, August 2012, late fees and the \$100.00 fee paid by the landlord for this application.

I order that the landlord retain the security deposit and interest of \$4,000.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$3,150.00**.

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. The tenants are presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlord is granted an order of possession, and may keep the security deposit and interest in partial satisfaction of the claim. I grant a monetary order for the balance due.

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: August 09, 2012.

Residential Tenancy Branch