



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, MNSD, OPR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords for an order of possession, a monetary order for unpaid rent, and to recover the cost of filing their application.

Although served with the Application for Dispute Resolution and Notice of Hearing in by registered mail on August 25, 2012, Canada post tracking numbers were provided, the tenants did not appear. I find that the tenants have been duly served in accordance with the Act.

The landlord's agent appeared gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and make submissions at the hearing

Preliminary Issue

At the onset of the hearing, I the Dispute Resolution Officer, informed the landlord's agent, that although the tenants have the same last name as myself, they are not know to me and are of no relationship. The landlord was provided the opportunity to have this matter adjourned to appear before another Dispute Resolution Officer.

The landlord's agent was not concerned that the Dispute Resolution Officer had the same name as the tenants and was ready to proceed at today's hearing.

The landlord's agent has withdrawn the claim for utilities, damages to the fence and cleanup. The landlord is at liberty to reapply for these claims.

Issue(s) to be Decided

Are the landlords entitled to an order of possession for unpaid rent?
Are the landlords entitled to a monetary order for unpaid rent?
Are the landlords entitled to recover the filing fee from the tenant?

Background and Evidence

Based on the testimony of the landlord, 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.

The landlord's agent testified the tenants did not pay all rent owed for August 2012, and have a balancing owing of \$977.00.

Analysis

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

Although the landlords are 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 landlords have established a total monetary claim of **\$1,047.00** comprised of the balance of rent owed for August 2012, and the \$50.00 fee paid by the landlord for this application. I grant the landlord an order under section 67 for the above amount.

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 landlords are granted a monetary order for rent due.

The landlords are at liberty to apply for further monetary compensation.

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: September 25, 2012.

Residential Tenancy Branch