



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession based on a 10 day Notice to End Tenancy for unpaid rent, a monetary order for unpaid rent and an order to recover the filing fee for the Application.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided 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 evidence and testimony before me that met the requirements of the rules of procedure, however, I refer to only the relevant facts and issues 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 both parties, I find that the Tenants were served with a 10 day Notice to End Tenancy for non-payment of rent on August 2, 2012, by posting on the door of the rental unit (the "Notice").

The Notice informed the Tenants 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.

One of the Tenants appeared at the hearing and testified they agreed that the rent was owed to the Landlord and they had not disputed the Notice because of that. The Tenant

explained they were willing to catch up with the overdue rent owed to the Landlord. The Tenants had made some partial payments to the Landlord.

The Agent for the Landlord testified that the Tenants owed \$529.00 for rent in August and \$699.00 for rent in September, plus the filing fee for the Application of \$50.00, provided the filing fee for the Application was awarded, for a total due now of \$1,278.00. The Agent consented that the Landlord would be willing to not enforce the order of possession if the Tenants paid the outstanding rent on certain dates.

The parties requested these arrangements to be recorded in this decision.

Analysis

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

I find the Tenants have not paid all the outstanding rent due and did not apply to dispute the Notice. The Tenants 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, August 12, 2012.

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.

However, the Agent for the Landlord consented that the Landlord would not enforce the order of possession if the Tenants pay the Landlord as follows:

- a. \$1,278.00 on or before September 27, 2012;
- b. \$349.50 for October rent on or before October 10, 2012; and
- c. \$349.50 for the balance of October rent on or before October 24, 2012.

Both parties agreed that if the Tenants do not pay the Landlord the amount required on or before any of the dates shown in the above schedule, the Landlord may then enforce the order of possession and the Tenants will have two (2) days to vacate the rental unit.

I further find that if the Tenants do not pay the Landlord by September 27, 2012, the Landlord has established a total monetary claim of **\$1,278.00**, comprised of the above described amounts. I grant the Landlord an order under section 67 for the balance due

if the Tenants fail to pay as described above. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

If the Tenants satisfy the payments as set out above, the order of possession and the monetary order will be of no force or effect after October 24, 2012, and the tenancy will continue until ended in accordance with the Act.

This decision is final and binding on the parties, unless 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 Act.

Dated: September 18, 2012.

Residential Tenancy Branch