



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Wall Financial Corporation
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNDC, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. The hearing was conducted by conference call. The landlord's representative called in and participated in the hearing. The tenants did not appear although they were personally served with the Application for Dispute Resolution and Notice of Hearing on January 24, 2013.

Issues

Is the landlord entitled to an order of possession?
Is the landlord entitled to a monetary order?

Background and Evidence

This tenancy began on July 1, 2008. The rent is \$850.00 due in advance on the first day of each month. The tenant paid a security deposit of \$425.00 on June 13, 2008 and a pet deposit of \$200.00 on June 24, 2008. The tenants did not pay rent for January when it was due. On January 5, 2013 the landlord personally served the tenant with a Notice to End Tenancy for non-payment. The tenants have not paid rent for January or for February and they did not file an application to dispute the Notice to End Tenancy.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenants do neither of these two things, the tenants are conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

Order of Possession - Based on the above background, evidence and analysis 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.

Monetary Order and Security Deposit - I find that the landlord has established a total monetary claim of \$1,740.00 for the outstanding rent for January and February and a \$20.00 late fee for each month. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$1,790.00. As requested at the hearing, I order that the landlord retain the security and pet deposits and interest of \$630.04 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1,159.96. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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: February 19, 2013

Residential Tenancy Branch

