



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Bon Terra Holdings Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, 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 and the tenants called in and participated in the hearing..

Issues

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Is the landlord entitled to an order allowing retention of the security deposit?

Background and Evidence

This tenancy began on October 15, 2009. The rent is \$850.00 due in advance on the first day of each month. The tenants paid a security deposit of \$425.00 at the start of the tenancy. The tenants did not pay the full rent for January when it was due. On January 8, 2013 the landlord served the tenants with a Notice to End Tenancy for non-payment of rent by posting it to the door of the rental unit. The landlord's representative testified that January rent in the amount of \$425.00 was paid by the tenant D.P. by direct deposit, the balance of rent in the amount of \$425.00 was not paid by the tenant S.P. and she served the tenants with a 10 day Notice to End Tenancy. The landlord's representative testified that there are arrears of rent for previous months amounting to \$1,065.00. The tenants denied that there was any rent owing for 2012. They acknowledged that only \$425.00 was paid for February and that they have not applied 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 tenant does neither of these two things, the tenant is 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 tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

Monetary Order and Security Deposit – The landlord's representative acknowledged at the hearing that she was unable to say precisely what was outstanding for arrears prior to January. I am able to determine only that there is a total of \$850.00 unpaid for January and February and the landlord is entitled to a monetary award in that amount. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$900.00. I order that the landlord retain the deposit of \$425.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$475.00. 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 20, 2013

Residential Tenancy Branch

