



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, FF

Introduction

This hearing dealt with a landlord's application for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent and loss of rent. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

The Application was amended during the hearing to reflect a withdrawal of the landlord's request to keep the security deposit. As a result, the security deposit remains in trust for the tenants, to be administered in accordance with the Act.

Issue(s) to be Decided

1. Is the landlord entitled to an Order of Possession for unpaid rent?
2. Is the landlord entitled to a Monetary Order for unpaid rent and loss of rent in the amount claimed?

Background and Evidence

The tenancy started March 1, 2010 and the tenants are required to pay rent of \$1,500.00 on the 1st day of every month. The tenants have not paid rent for July 2012 onwards. The landlord personally served the male tenant with a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) on December 21, 2012. The Notice indicates \$9,000.00 in rent was outstanding as of December 1, 2012 and has a stated effective date of January 15, 2013. The tenants did not pay the outstanding rent or file to dispute the Notice. The tenants continue to occupy the rental unit.

The landlord is seeking to recover \$12,000.00 in unpaid and loss of rent up to and including the month of February 2013.

The tenants indicated they have suffered financial difficulties and agree that the landlord is entitled to the amount claimed.

The landlord provided a copy of the tenancy agreement and various email communications between the parties as documentary evidence for this proceeding. The content of the 10 Day Notice was read into evidence by the landlord and confirmed to be accurate by the tenants.

Analysis

When a tenant receives a 10 Day Notice the tenant has five days to pay the outstanding rent to nullify the Notice or the tenant has five days to dispute the Notice by filing an Application for Dispute Resolution. If a tenant does not pay the outstanding rent or dispute the Notice within five days then, pursuant to section 46(5) of the Act, the tenant is conclusively presumed to have accepted the tenancy will end and must vacate the rental unit by the effective date of the Notice.

I accept that the tenants were served with a valid 10 Day Notice on December 21, 2012 based upon the undisputed evidence presented to me. Since the tenants did not pay the outstanding rent or dispute the Notice I find the tenancy ended on the stated effective date of January 15, 2013 and the landlord is entitled to regain possession of the rental unit. Provided with this decision is an Order of Possession effective two (2) days after service upon the tenants.

Based upon the undisputed evidence presented to me, I find the landlord entitled to recover unpaid rent and loss of rent in the amount of \$12,000.00 up to and including the month of February 2013. I also award the landlord the filing fee paid for this Application. Therefore, the landlord is provided a Monetary Order in the total amount of \$12,100.00 to serve upon the tenants. The Monetary Order may be filed in Provincial Court (Small Claims) and enforced as an Order of the court as necessary.

Conclusion

The tenancy has ended for unpaid rent and the landlord has been provided an Order of Possession effective two (2) days after service upon the tenants. The landlord has been provided a Monetary Order in the amount of \$12,100.00 to serve upon the tenants. The security deposit remains in trust for the tenants, to be administered in accordance with the Act.

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 12, 2013

Residential Tenancy Branch

