



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR

Introduction

This was a hearing with respect to the landlord's application for an order for possession pursuant to a Notice to End Tenancy for unpaid rent. The hearing was conducted by conference call. The landlord's agent and the tenants called in and participated in the hearing.

Issue(s) to be Decided

Is the landlord entitled to an order for possession?

Background and Evidence

The tenancy began October 1, 2012. Monthly rent is \$1,500.00. The tenants paid a security deposit of \$750.00 at the start of the tenancy. The tenant's cheque for December rent was returned "NSF". On January 7, 2013 the landlord's agent served the tenants with a 10 day Notice to End Tenancy for unpaid rent. Since receiving the Notice to End Tenancy the tenants have paid the amount due for December and have paid \$800.00 on account of rent for January. The payment was accepted for use and occupancy only. No rent has been paid for February. At the hearing the landlord's agent said that he was seeking an order for possession effective March 15, 2013, so as to give the tenants time to find new accommodation.

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

On the evidence presented the landlord is entitled to an order for possession effective two days after service on the tenants, but the landlord requested that the tenants be given more time to move and, based on that request, I find that the landlord is entitled to an order of possession effective March 15, 2013, after service on the tenants. This order may be filed in the Supreme 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 13, 2013

Residential Tenancy Branch

