



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, OPR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlords for an order of possession based on a 10 day Notice to End Tenancy for unpaid rent, a monetary order for unpaid rent, an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee for the Application.

Only the Landlords appeared at the hearing. They gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Landlords testified that they served the Tenant with the Application and Notice of Hearing in person, on January 26, 2013. Despite this the Tenant did not appear at the hearing. I find the Tenant has been duly served in accordance with the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlord to an Order of Possession and monetary relief?

Background and Evidence

Based on the affirmed and uncontradicted testimony of the Landlords, I find that the Tenant was served with a 10 day Notice to End Tenancy for non-payment of \$750.00 in rent, on January 4, 2013, by posting on the door.

The Tenant did not pay all the outstanding rent and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice, January 17, 2013.

The Landlords testified that the Tenant vacated the rental unit on February 2, 2013.

Analysis

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

Although the Landlords are entitled to an order of possession in these circumstances, the Tenant has vacated the rental unit and therefore, an order of possession is no longer required.

I find that the Tenant has breached section 26 of the Act by failing to pay rent to the Landlords. By staying the rental unit into February 2013, rather than vacating on January 17, 2013, as required under the Notice, the Tenant has caused the Landlords to suffer another month of lost rent.

I find the breaches of the Act and tenancy agreement by the Tenant has caused the Landlords to suffer losses, and therefore, pursuant to section 67 of the Act I order the Tenant to pay the Landlords rent for the months of January and February 2013.

I find the Landlords have established a total monetary claim of **\$1,550.00** comprised of the rent owed for January and February 2013 (2 x 750.00), and the \$50.00 fee paid by the Landlords for this application.

I order that the Landlords retain the deposit of **\$350.00** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$1,200.00**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

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: February 07, 2013

Residential Tenancy Branch

