



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing was convened by way of conference call in repose to the landlord's application for an Order of Possession for unpaid rent; and for a Monetary Order for unpaid rent and to recover the filing fee from the tenants for the cost of this application.

Service of the hearing documents, by the landlords to the tenants, was done in accordance with section 89 of the *Act*. The landlords testify that the female tenant was served in person on March 01, 2013 and the male tenant was served in person on March 04, 2013.

The landlords appeared, gave sworn testimony, were provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenants. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Are the landlords entitled to an Order of Possession due to unpaid rent?
- Are the landlords entitled to a monetary Order to recover unpaid rent?

Background and Evidence

The landlord testifies that this Fixed term tenancy started On November 15, 2012. Rent for this unit is \$1,050.00 per month and is due on the 1st of each month.

The landlords testify that the tenants failed to pay all the rent for January, 2013 leaving an unpaid balance of \$650.00. The landlords issued a 10 Day Notice to End Tenancy for unpaid rent on January 20, 2013. This was served to the tenants in person. This Notice states that the tenants owe rent of \$650.00 which was due on January 01, 2013. The tenants had five days to either pay the outstanding rent or apply for Dispute Resolution or the tenancy would end on January 30, 2013. The tenants made a payment of \$600.00 on January 26, 2013 and the landlords accepted this and provided the tenants with a letter stating that this money was accepted for occupancy only and did not reinstate the tenancy. Since that time the tenants have failed to pay rent for February, 2013 of \$1,050.00 and for March, 2013 of \$1,050.00. The total amount of outstanding rent is now \$2,150.00.

The landlords seek a Monetary Order to recover the unpaid rent. The landlords also request an Order of Possession to take effect as soon as possible.

Analysis

Section 26 of the *Residential Tenancy Act (Act)* states: *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

Consequently, as the tenant has failed to attend the hearing to dispute the landlords claim I find from the documentary evidence and testimony of the landlords that the tenants have failed to pay rent and the landlords are entitled to recover rent arrears. Consequently, the landlord will receive a Monetary Order to the sum of **\$2,150.00** pursuant to s. 67 of the *Residential Tenancy Act (Act)*.

I accept that the tenants were served the 10 Day Notice to End Tenancy for unpaid rent, pursuant to section 88 of the *Residential Tenancy Act*. The Notice states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not pay the outstanding rent within five days nor apply to dispute the Notice to End Tenancy within five days.

Based on the foregoing, I find that the tenants are conclusively presumed, under section 46(5) of the *Act*, to have accepted that the tenancy ended on the effective date of the Notice and grant the landlord an order of possession pursuant to s. 55 of the *Act*.

As the landlords have been successful with this application I find the landlords are entitled to recover the **\$50.00** filing fee from the tenants pursuant to s. 72(1) of the *Act*.

Conclusion

I HEREBY FIND in favor of the landlords' monetary claim. A copy of the landlords' decision will be accompanied by a Monetary Order for **\$2,200.00**. The order must be served on the Respondents and is enforceable through the Provincial Court as an order of that Court.

I HEREBY ISSUE an Order of Possession in favour of the landlords effective **two days after service upon the tenants**. This order must be served on the Respondents and 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: March 25, 2013

Residential Tenancy Branch

