



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MND, MNR, MNSD, MNDC, 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 called in and participated in the hearing. The tenants did not appear although they were served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent on February 20, 2013.

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 November 18, 2012. The rent is \$1,050.00 due in advance on the first day of each month. The tenants paid a security deposit of \$525.00 on November 7, 2012. The tenants paid rent late during the tenancy and did not pay rent for February when it was due. On February 9, 2013 the landlord served the tenant with a Notice to End Tenancy for non-payment of rent by posting it to the door of the rental unit. The tenants have not paid rent for February or for March and they did not file an application 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 tenants 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 tenants

do neither of these two things, the tenants are 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 tenants. This order may be filed in the Supreme Court and enforced as an order of that Court.

Monetary Order and Security Deposit - I find that the landlord has established a total monetary claim of \$2,100.00 for the outstanding rent for February and March. The landlord claimed for damage to the kitchen ceiling estimated at \$1,000, at the hearing the landlord testified that the tenants have partially vacated the rental unit within the past few days. She said the tenants have interfered with her attempts to show the unit to prospective tenants and they have caused additional damage to the unit. The landlord has not had the opportunity to obtain a proper estimate to repair the damage to the ceiling. I find that the landlords' claim for repairs is premature and it is dismissed with leave to reapply. He landlord may choose to bring a further application for a monetary order once the extent of repairs and any loss of revenue have been established.

The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$2,150.00. I order that the landlord retain the deposit and interest of \$525.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$\$1,625.00. 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: March 14, 2013

Residential Tenancy Branch

