



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OP MNR MNSD FF

Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order. The hearing was conducted by conference call. The landlords and the tenants called in and participated in the hearing.

Issues

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Background and Evidence

This tenancy began on July 1, 2006. The current rent is \$2,250.00 due in advance on the first day of each month. The tenants did not provide a security deposit. The landlord submitted a letter dated April 11, 2013 whereby the tenant acknowledged that after a payment to the landlord of \$900.00 on April 6, 2013 there was outstanding rent owed to the landlord of \$7,350.00. On April 17, 2013 the landlord personally served the tenant with a Notice to End Tenancy for non-payment of rent. The Notice alleged that the tenants failed to pay rent in the amount of \$7,350.00 that was due on April 6th. Since receiving the 10 day Notice to End Tenancy the tenants paid the landlord the sum of \$2,050.00 on May 3, 2013. The landlord gave the tenant a receipt and a letter dated May 6, 2013. The landlord said in the letter that taking into account the payment and the rent due for May, the total amount due for arrears and May rent is the sum of \$7,550.00. The tenants have not applied to dispute the Notice to End Tenancy.

During the hearing the tenants mentioned grievances they have with the landlord and the state of repair of the rental property, but they confirmed that they owe the amount claimed by the landlord.

During the hearing the landlord said that he wanted an order for possession but was prepared to give the tenants until June 30, 2013 to move out of the rental property.

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 June 30, 2013, after service on the tenants. This order may be filed in the Supreme Court and enforced as an order of that Court.

Monetary Order - I find that the landlord has established a total monetary claim of \$7,550.00 for the outstanding rent for May and arrears for past months. The landlord is entitled to recover the \$100.00 filing fee for this application for a total award of \$7,650.00 and I grant the landlord an order under section 67 in the said amount. 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: May 31, 2013

Residential Tenancy Branch