



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, and a monetary order for unpaid rent and damages to the unit.

Both parties appeared, gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

Preliminary and procedural matters

The landlord's has applied for damages to the rental unit, as the landlord has provided no particulars of the dispute in their application and the tenants are still occupying the rental unit. I find this portion of the landlord's claim premature. The landlord is at liberty to reapply.

During the hearing the landlord's agent requested to amend their application to include June 2013, rent, which I allowed. However, after further consideration of the evidence of both parties and the fact that both parties had agreed a 2 Month Notice to End Tenancy for Landlord Use of Property was served on the tenants. Which neither party provided a copy of this notice; I find that I am unable to determine if the tenants were required to pay rent for June 2013, as the tenants may have been entitled to compensation for having received the notice pursuant to section 51 of the Act. Therefore, I make no finding of facts relating to June 2013, rent. The landlord is at liberty to apply.

As a result, this hearing proceeded on the landlord's application for an order of possession and a monetary order on the basis of the 10 Day Notice to End Tenancy for Unpaid Rent for May 2013, only.

Issues to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary order?

Is the landlord entitled to recover the cost of the filing fee?

Background and Evidence

Based on the testimony of the landlord's agent, I find that the tenants were served with a notice to end tenancy for non-payment of rent on May 27, 2013, by registered mail as indicated by the Canada post history. The notice informed the tenants that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenant had five days to dispute the notice. The effective vacancy date of the notice was May 18, 2013, which would automatically correct to June 7, 2013, under the Act.

The tenants confirm they received the notice on May 27, 2013. The tenants acknowledged that they have not paid any rent for May 2013.

Analysis

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

The tenants have not paid the outstanding rent and did not apply to dispute the Notice and are therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the correct effective date of the Notice.

I find that the landlord is entitled to an order of possession effective **two days** after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

The evidence of the tenants was they did not pay rent for May 2013. Therefore, I find the landlord is entitled to compensation for unpaid rent in the amount of **\$1,495.00**.

I find that the landlord has established a total monetary claim of **\$1,545.00** comprised of unpaid rent for May 2013 and the \$50.00 fee paid by the landlord for this application. I grant the landlord an order under section 67 of the Act.

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

Conclusion

The tenant failed to pay rent and did not file to dispute the notice to end tenancy. The tenant is presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlord is granted an order of possession. The landlord is granted a monetary.

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: June 17, 2013

Residential Tenancy Branch

