



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WESTHALL PROPERTIES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MNDC, OPR, FF

Introduction

The landlord has applied for an Order of Possession and a Monetary Order.

I accept that the tenants were properly served with the Application for Dispute resolution hearing package by way of registered mail.

Issues to Be Decided

- Is the Notice to End Tenancy (also served upon the tenants by registered mail) effective to end this tenancy, and entitle the landlord to an Order of Possession?
- Is there rent money due and payable by the tenants?

Background and Evidence

This tenancy began on August 15, 2012. Rent is due on the 1st day of each month in the amount of \$1,450.00. A security deposit of \$725.00 was paid at the start of the tenancy. The landlord served the tenants with a 10-Day Notice to End Tenancy on April 15, 2013, after the tenants had fallen into arrears. The tenants did not pay the rent or apply for dispute resolution within the required five days of receiving the Notice to End Tenancy. Subsequently on May 27, 2013, they paid a further \$825.00, which was accepted on a use and occupation basis. Including June's rent, there are rental arrears of \$3,525.00 still owing to the landlord.

Analysis

In the absence of the required rental payment, or a dispute of the notice within the 5 day period set out in the Notice, the tenant is conclusively presumed to have accepted the end of the tenancy agreement on the effective date of the Notice, by virtue of section 46(5)(a) of the Residential Tenancy Act. As the effective date of the Notice has passed, the landlord has established a right to possession.

The landlord is entitled to recover the rental arrears and filing fee from the tenants.

Conclusion

Pursuant to Section 55(2)(b) of the Residential Tenancy Act, I issue an Order of Possession effective June 30, 2013. Should the tenants be served with this Order, but fail to comply with this Order, the landlord may register the Order with the Supreme Court for enforcement.

The landlord is issued a monetary order in the amount of \$3,575.00, representing the rental arrears of \$3,525.00 and recovery of the \$50.00 filing fee.

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 12, 2013

Residential Tenancy Branch