



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, MNSD, OPR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords for an order of possession, a monetary order for unpaid rent and an order to retain the security deposit in partial satisfaction of the claim.

Although served with the Application for Dispute Resolution and Notice of Hearing in person on June 1, 2013, the tenant did not appear. I find that the tenant has been duly served in accordance with the Act.

The landlords appeared gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and make submissions at the hearing.

Issues to be Decided

Are the landlords entitled to an order of possession?
Are the landlords entitled to a monetary order for unpaid rent?

Background and Evidence

Based on the testimony of the landlord, I find that the tenant was served with a Notice to End Tenancy for non-payment of rent. The tenant has not paid all the outstanding rent and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice. The tenant vacated the rental unit on June 2, 2013, without returning the keys.

The landlord testified that on May 31, 2013, the tenant informed them that they had not found new rental accommodation and would not be vacating the rental unit.

The landlord testified that the tenant did not pay any rent for May 2013, and did not pay rent due for June 2013, as rent was due on the first of the month under the terms of the tenancy agreement and the tenant was still occupying the rental unit. The landlords seek to recover unpaid rent in the amount of \$1,450.00.

Analysis

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

Although the landlords are entitled to an order of possession in these circumstances, the tenant has vacated the rental unit and therefore, an order of possession is no longer required.

I find that the tenant has failed to pay rent under the Act and tenancy agreement.

I find the landlords have established a total monetary claim of **\$1,500.00** comprised of unpaid rent owed for May, June 2013, and the \$50.00 fee paid by the landlords for this application. I order that the landlords retain the deposit and interest of **\$300.00** in partial satisfaction of the claim and I grant the landlords an order under section 67 for the balance due of **\$1,200.00**.

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

Conclusion

The tenants failed to pay rent and did not file to dispute the Notice to End Tenancy, and vacated the rental unit. Therefore, an order of possession is not required.

The landlords are granted a monetary order for rent due, and may keep the security deposit in partial satisfaction of the claim. I grant the landlords a formal order for the balance due.

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 25, 2013

Residential Tenancy Branch