



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Capreit Limited Partnership
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FF, MNDC, MNR, MNSD, OPR

Introduction

This is an application for an Order of Possession based on a Notice to End Tenancy for nonpayment of rent, a request for a Monetary Order for \$2730.90, a request for recovery of the filing fee, and a request to retain the full security deposit towards the claim.

A substantial amount of documentary evidence and written arguments has been submitted prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the applicant the opportunity to testify at the hearing.

The applicant testified that the respondent was served with notice of the hearing by registered mail that was mailed May 28 2013; however the respondent did not join the conference call that was set up for the hearing.

Documents sent by registered mail are deemed served five days after they were mailed, and therefore it's my finding that the respondent was served with notice of today's hearing by June 2, 2013.

All testimony was taken under affirmation.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to a Monetary Order in the amount of \$2730.90.

Is the landlord entitled to recovery of the \$50.00 filing fee.

Background and Evidence

The applicant testified that:

- The tenant had fallen behind in the rent and therefore on May 2, 2013 the tenant was served with a 10 day Notice to End Tenancy.
- The tenant did not comply with the notice or pay the outstanding rent within the grace period, and therefore on May 27th 2013 they applied for dispute resolution.
- The full outstanding rent and parking fees have subsequently been collected, however the receipts were issued for use and occupancy only.
- They are therefore no longer requesting a Monetary Order, except for the filing fee, however they are still requesting an Order of Possession for the end of June 2013.

Analysis

It's my finding that the landlords have established the right to an Order of Possession and recovery of the filing fee.

The tenant failed to pay the rent due for the month of May 2013 and was served with a valid 10 day Notice to End Tenancy.

The tenant failed to pay the outstanding rent within the grace period, and although the full outstanding rent has now been paid, it was collected for use and occupancy only, and therefore did not reinstate the tenancy.

Therefore since the landlord has collected rent for use and occupancy to the end of June 2013 I will be issuing an Order of Possession for the last day of June 2013.

I also allow the claim for recovery of the filing fee.

Conclusion

I have issued an Order of Possession for 1 PM on June 30, 2013.

I have issued a Monetary Order for \$50.00, for recovery of the 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 19, 2013

Residential Tenancy Branch