



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNR, 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 unpaid rent and utilities, and a request for recovery of the \$50.00 filing fee.

Some documentary evidence and written arguments have 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(s) were served with notice of the hearing by registered mail that was mailed on May 29, 2013; however the respondent(s) did not join the conference call that was set up for the hearing.

It is my finding that the respondents are deemed served five days after mailing.

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 for outstanding rent and utilities?

Background and Evidence

The applicant testified that:

- The tenant's failed to pay outstanding utilities, and therefore on May 16, 2013 they were served with a 10 day Notice to End Tenancy.
- On the tenancy agreement that states that the tenant was to currently pay \$180.00 per month, however at the end of the year the annual adjustment still had \$770.75 outstanding, and the tenant share of that is \$400.00.
- The tenants have failed to comply with the Notice to End Tenancy, and have also failed to pay both the May 2013 rent, and the June 2013 rent.
- He is therefore requesting an Order of Possession for as soon as possible and a Monetary Order as follows:

Utilities outstanding	\$400.00
May 2013 rent outstanding	\$900.00
June 2013 rent outstanding	\$900.00
Filing fee	\$50.00
Total	\$2250.00

Analysis

If the tenants fail to dispute a Notice to End Tenancy within the required time frame, they are deemed to have accepted the end of the tenancy, and therefore since it is my finding that the tenants were served with a Notice to End Tenancy and have filed no dispute that notice, this tenancy ends pursuant to that notice and I allow the request for an Order of Possession.

I also allow the landlords request for outstanding rent for the months of May 2013, and June 2013 for a total of \$1800.00.

I also order recovery of the \$50.00 filing fee.

I will not allow the claim for outstanding utilities however, because the landlord has not met the burden of proving that there was any agreement for the tenants to pay any utilities other than the \$180.00 per month listed on the tenancy agreement. Anything over that \$180.00 per month would therefore be the responsibility of the landlord.

Conclusion

I have issued an Order of Possession that is enforceable two days after service on the tenants.

I have issued a Monetary Order in the amount of \$1850.00.

The landlords claim for outstanding utilities of \$400.00 is dismissed without leave to reapply.

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 24, 2013

Residential Tenancy Branch

