



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 was convened by way of conference call in response to the landlords' application for an Order of Possession for unpaid rent; for a Monetary Order for unpaid rent; and to recover the filing fee from the tenants for the cost of this application.

The landlord testifies that he served the tenants by registered mail on July 11, 2013. Canada Post tracking numbers were provided by the landlord in evidence.

One of the tenants, an agent for the landlord and the landlord attended the conference call hearing. The parties gave sworn testimony. The landlord provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. All evidence and testimony of the parties has been reviewed and are considered in this decision.

Issue(s) to be Decided

- Are the landlords entitled to an Order of Possession due to unpaid rent?
- Are the landlords entitled to a Monetary Order to recover unpaid rent?

Background and Evidence

The parties agree that this month to month tenancy started on March 01, 2007. Rent for this unit is now \$1,675.00 per month and is due on the 1st of each month.

The landlord's agent testifies that the tenants owed rent of \$750.00 for April, 2013; \$75.00 owed for May, 2013 and \$1,675.00 for June, 2013 leaving an unpaid balance of \$2,500.00. The landlords issued a 10 Day Notice to End Tenancy for unpaid rent on June 27, 2013. This was posted to the tenants' door on June 28, 2013 and was deemed to have been served three days after posting. This Notice states that the tenants owe rent of \$2,500.00 which was due on June 01, 2013. The tenants had five days to either pay the outstanding rent or apply for Dispute Resolution or the tenancy would end on July 07, 2013. The tenants did not pay the outstanding rent or dispute the Notice within five days. Since that time the tenants have failed to pay rent for July and August, 2013 of \$3,350.00. The total amount of outstanding rent is now \$5, 850.00.

The landlord requests an Order of Possession to take effect as soon as possible; and a Monetary Order to recover the unpaid rent and filing fee of \$100.00.

The tenant attending agrees that he has not paid the rent as stated by the landlord's agent. The tenant testifies that he has been in financial difficulties. The tenant testifies that the other tenant has already vacated the rental unit and their relationship has ended. The tenant testifies that although they have moved from the rental unit, their belongings remain in the unit and they still have possession of the unit.

Analysis

Section 26 of the *Residential Tenancy Act (Act)* states: *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

When there are two tenants named on a tenancy agreement both tenants remain responsible for the terms of that agreement whether or not one tenant has vacated the rental unit earlier. Co-tenants are jointly and severally liable for any debts or damages relating to the tenancy. This means that the landlord can recover the full amount of rent,

utilities or any damages from all or any one of the tenants. The responsibility falls to the tenants to apportion among themselves the amount owing to the landlord.

Consequently, as the tenant attending does not dispute the landlords claim I find the landlords have established their claim for unpaid rent and will receive a Monetary Order for **\$5,850.00** pursuant to s. 67 of the *Act*.

I accept that the tenants were served the 10 Day Notice to End Tenancy for unpaid rent, pursuant to section 88 of the *Residential Tenancy Act*. The Notice states that the tenants had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not pay the outstanding rent within five days nor apply to dispute the Notice to End Tenancy within five days.

Based on the foregoing, I find that the tenants are conclusively presumed, under section 46(5) of the *Act*, to have accepted that the tenancy ended on the effective date of the Notice and grant the landlord an order of possession pursuant to s. 55 of the *Act*. As the landlords have been successful with this claim I find the landlords are also entitled to recover the **\$100.00** filing fee from the tenants pursuant to s. 72(1) of the *Act*.

Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$5,950.00** comprised of unpaid rent and the filing fee. The order must be served on the Respondents and is enforceable through the Provincial Court as an order of that Court.

I HEREBY ISSUE an Order of Possession in favour of the landlord effective **two days after service upon the tenants**. This order must be served on the Respondents and may be filed in the Supreme Court and enforced as an order of that Court.

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: August 13, 2013

Residential Tenancy Branch

