



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Codes: MNR, MNSD, OPR, OPB, FF

Introduction:

This was an application by the landlord for an Order for Possession, a Monetary Order and an Order to retain the security deposit in partial satisfaction of the monetary claim. Only the landlord attended the application.

Issues:

Is the landlord entitled to an Order for Possession and Monetary Order?

Background and Evidence:

The landlord testified that the tenancy began on March 1, 2013 with rent in the amount of \$ 1,000.00 due in advance on the first day of each month. The tenants paid a security deposit of \$ 425.00 on March 1, 2013. The landlord testified that he served the Notice to End the tenancy on August 5, 2013 by posting it to the tenants' door and the dispute resolution package by posting it to the tenants' door on September 25, 2013. The landlord testified that the tenants failed to pay rent for 3 months (August through October) and requested a monetary Order for those arrears.

Analysis:

I find that the tenants were personally served with a Notice to End Tenancy for non-payment of rent on August 8, 2013 by posting it to their door on August 5, 2013. The tenants have not paid all the outstanding rent on time and have not applied for arbitration to dispute the Notice and are therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. Based on the above facts I find that the landlord is entitled to an order for possession effective two days after service on the tenants.

Based on the evidence of the landlord I find that the landlord did not serve the tenants with the dispute resolution package in accordance with section 89 of the act as required for monetary Orders which states:

89 (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:

(a) by leaving a copy with the person;

(c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;

(d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;

(e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

Accordingly I have dismissed the application for a monetary award with leave to reapply. The landlord is entitled to recover the \$50.00 filing fee for this application. I order that the landlord may retain that sum from the security deposit.

Conclusion:

I have granted the landlord an Order for Possession. This order may be filed in the Supreme Court and enforced as an Order of that Court. I order that the landlord retain \$ 50.00 from the deposit and interest representing the filing fee herein. I have dismissed the application for a monetary Order with leave to reapply. This Decision and all Orders must be served on the tenants as soon as possible.

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: October 08, 2013

Residential Tenancy Branch

