



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Waldorf Manor
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, MNR

Introduction

This hearing dealt with an application by the tenants to cancel a Notice to End Tenancy for Unpaid Rent, and an application by the landlord for an order of possession and a monetary order for unpaid rent, administrative fees, and the RTB filing fee.

The tenants and the landlord both attended the hearing and gave affirmed evidence. They acknowledged service of each other's Applications for Dispute Resolution.

Issue(s) to be Decided

Should the Notice to End Tenancy for Unpaid Rent be cancelled?

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The parties agree that they previously had a tenancy agreement for a different rental unit from approximately January 2013 until approximately May 2013. The current tenancy agreement commenced in approximately May 2013, and the tenants are obligated to pay \$1,100.00 in rent in advance on the first of the month. The tenants also paid a security deposit of \$550.00.

The landlord gave evidence that the tenants' cheque for \$700.00 for partial December 2013 rent was returned NSF. He said he served a Notice to End Tenancy for Unpaid Rent (the "Notice") on December 13, 2013 by personal service to one of the tenants.

The landlord gave evidence that the tenants paid rent for December 2013 and January 2014 in mid-January 2014 by making payments of \$800.00 and \$1,400.00 for a total of \$2,200.00. The landlord said that he accepted the payments but wrote on the receipts "receipt for use and occupancy" to indicate that the tenancy was not reinstated by the payments.

The tenants gave evidence that they agree that they made payments of \$800.00 and \$1,400.00 in mid-January 2014 for December 2013 and January 2014 rent. Although

copies of the receipts were not put in evidence, the tenants agree the receipts state "receipt for use and occupancy".

The landlord gave evidence that the tenants owe \$25.00 in late payment fees for each of December 2013 and January 2014, and a \$25.00 NSF fee for the returned cheque from December 2013. The total fees owing are \$75.00. The tenancy agreement was not put in evidence, but the tenants agree that these fees are specified in the tenancy agreement.

Analysis

Based on the landlord's affirmed evidence, which was not contradicted by the tenants, I find that the tenants were served with the Notice on December 13, 2013. The tenants did not pay the rent owing within five days of receiving the Notice. Although the tenants eventually paid the December 2013 rent, the landlord did not agree to reinstate their tenancy. For these reasons, I grant the landlords an order of possession which must be served on the tenants. Should the tenants fail to comply with the order, it may be filed for enforcement in the Supreme Court.

The landlord is entitled to a monetary order for \$75.00 in administrative fees and \$50.00 to recover the RTB filing fee, for a total of \$125.00. The tenants have expressed an intention to pay the \$75.00 in administrative fees to the landlord shortly. If they fail to do so, I authorize the landlord to deduct the \$75.00 from the tenants' security deposit. I also authorize the landlord to deduct \$50.00 for the RTB filing fee from the tenant's security deposit.

Conclusion

I grant the landlord an order of possession. The landlord is also entitled to retain up to \$125.00 from the security deposit. The tenant's application is dismissed.

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: January 22, 2014

Residential Tenancy Branch