



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OP MNR MNSD FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. The hearing was conducted by conference call. The landlord called in and participated in the hearing. The tenants did not appear although they were served personally and by registered mail he was served with the Application for Dispute Resolution and Notice of Hearing. The tenant, W.A.T. was served by registered mail sent on January 4, 2014. The tenant, F.C.B. was personally served on January 3, 2014.

Issues

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Is the landlord entitled to an order allowing retention of the security deposit?

Background and Evidence

This tenancy began on July 1, 2012. The rent is \$1,250.00 due in advance on the first day of each month. The tenants paid a security deposit of \$625.00 on June 18, 2012. The tenants did not pay rent for December when it was due. On December 27, 2013 the landlord personally served the tenants with a Notice to End Tenancy for non-payment of rent. The tenants have not paid rent for December or for January and they did not file an application to dispute the Notice to End Tenancy.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. The tenants moved out of the rental unit on January 16th. The landlord now has vacant possession of the rental unit

and an order for possession is no longer required and the application for an order for possession is therefore dismissed.

Conclusion

Monetary Order and Security Deposit - I find that the landlord has established a total monetary claim of \$2,500.00.00 for the outstanding rent for December and January. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$2,550.00. I order that the landlord retain the deposit and interest of \$625.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1,925.00. This order may be filed in the Small Claims 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: January 17, 2014

Residential Tenancy Branch

