



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HOLLYBURN ESTATES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNDC, MNSD, FF

Introduction

The landlord has applied for dispute resolution of a dispute in the tenancy at the above noted address, and requests an Order of Possession, a Monetary Order; and an order to retain the security deposit.

The tenants failed to attend the hearing. I accept that the tenants were properly served with notice of this hearing, by way of registered mail. Failure or refusal to accept the registered mail does not invalidate the deeming provisions regarding service.

Issues to Be Decided

- Is the landlord entitled to an Order of Possession?
- Is the landlord entitled to a Monetary Order?
- Is the landlord entitled to an order permitting retention of the security deposit?

Background and Evidence

This tenancy began February 1, 2013. Rent is due on the 1st day of each month in the amount of \$1,430.00. On December 6, 2013 the landlord posted a 10-Day Notice to End Tenancy on the tenant's door, after not receiving full rent for the month of December. The tenant did not pay the rental arrears or apply for dispute resolution within the required five days of receiving the Notice to End Tenancy. Subsequent payments were made, and were accepted on a use and occupation basis by the landlord, extending the tenancy to January 31, 2014. No rent for February has been paid.

Analysis

In the absence of the required payment or a dispute of the Notice to End Tenancy within the 5 day period set out in the Notice, the tenants are conclusively presumed to have accepted the end of the tenancy agreement on the effective date of the Notice, by virtue of section 46(5)(a) of the Residential Tenancy Act, as extended by the use and possession periods, which do not continue beyond the date of this hearing. The landlord has established a right to possession, and is entitled to an Order of Possession. The landlord is awarded recovery of the \$50.00 filing fee.

No award is made for any loss of rent, as the landlord has not made any claim for loss of rent for February. The landlord remains at liberty to file such further claim.

Conclusion

An Order of Possession is issued to the Landlord, effective within 48 hours of service upon the tenant. Should the tenant be served with this Order, but fail to comply with this Order, the landlord may register the Order with the Supreme Court for enforcement.

The landlord may retain the sum of \$50.00 from the tenants' deposit, as recovery of the landlord's filing fee.

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: February 05, 2014

Residential Tenancy Branch