



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OP

Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order for unpaid rent and to recover the RTB filing fee.

The landlord and one of the tenants participated in the teleconference hearing, and both gave affirmed evidence.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order and, if so, for what amount?

Background and Evidence

The parties agree they entered into a tenancy agreement in early September 2013. The parties agreed that the rent would be \$800.00 per month payable in advance on the first of the month. However, the house was not fully ready for occupancy, and the parties agreed there would be discounts to the rent while the landlord continued clearing out his father's belongings from the house.

The parties agree that rent for the month of September 2013 was \$400.00, which represented \$800.00 in rent with a \$400.00 discount for the tenant's inconvenience and because the tenants did not have access to the entire residence. The parties agree that \$400.00 was paid in September 2013.

The parties agree that rent for the month of October 2013 was \$600.00, which represented \$800.00 in rent with a \$200.00 discount. The landlord gave evidence that the tenants first provided \$400.00 as a security deposit, but the parties later agreed that the \$400.00 would be partial rent for October 2013 and the tenants then gave the landlord an additional \$200.00 for the balance of October 2013 rent.

The parties agree that rent for the month of November 2013 was \$600.00, which represented \$800.00 in rent with a \$200.00 discount. The landlord gave evidence that he served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent (the "November Notice") on November 18, 2013 by posting the November Notice on the tenant's door. Section 90 of the Act provides that because the November Notice was served by posting on the tenant's door, the tenant is deemed to have received the November Notice three days later on November 21, 2013. The November Notice specified that \$600.00 was owing in unpaid rent.

The landlord gave evidence that the tenants paid \$600.00 for November rent on November 23, 2013. Since the tenants paid the unpaid rent specified in the November Notice within five days of the date the tenants are deemed to have received the November Notice, the November Notice is cancelled.

The parties agree that rent for the month of December 2013 was \$600.00, which represented \$800.00 in rent with a \$200.00 discount. The landlord gave evidence that he served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent (the "December Notice") on December 5, 2013 by personal service. The December Notice specified that \$600.00 was owing in unpaid rent.

The landlord gave evidence that the tenants paid \$600.00 for December rent within five days of receiving the December Notice. Since the tenants paid the unpaid rent specified in the December Notice within five days of the date the tenants received the December Notice, the December Notice is cancelled.

The parties agree that rent for the month of January 2014 was \$700.00, which represented \$800.00 in rent with a \$100.00 discount. The landlord gave evidence that the parties agreed to a week's extension to the date that January 2014 rent was due, making the due date for January 2014 rent January 8, 2014.

The landlord gave evidence that he served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent (the "January Notice") on January 17, 2014 by personal service. The January Notice specified that \$600.00 was owing in unpaid rent. The landlord gave evidence that the tenants paid \$700.00 for January rent on January 24, 2014. The landlord said that he accepted the payment and wrote on the receipt "for use and occupancy". The landlord's evidence is that he wishes to end the tenancy.

The parties agree that rent for the month of February 2014 was \$700.00, which represented \$800.00 in rent with a \$100.00 discount. The landlord gave evidence that the tenants paid the \$800.00 for February 2014 rent on February 2, 2014. The

landlord's evidence is that he wrote on the receipt "for use and occupancy" because he still wishes to end the tenancy.

The landlord gave evidence that the tenants have paid rent for the month of February 2014 and he will waive his right to recover the RTB filing fee.

Analysis

The landlord is entitled to end the tenancy because the tenants did not apply to dispute the January Notice, or pay the amount of unpaid rent specified on the January Notice, within five days of receiving the January Notice. I therefore grant the landlord an order of possession effective February 28, 2014 at 1 p.m. 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.

I accept the evidence of the parties that the tenants have paid \$700.00 for use and occupancy of the rental unit until February 28, 2014 at 1 p.m. Since the landlord has agreed to waive his right to recover the RTB filing fee, there shall be no monetary order.

Conclusion

I grant the landlord an order of possession effective February 28, 2014 at 1 p.m.

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 12, 2014

Residential Tenancy Branch

