



Dispute Resolution Services

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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, who is the property manager for the owner called in and participated in the hearing. The named tenant called in and participated in the hearing. She acknowledged that she received the landlord's application.

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 December 1, 2013. The rent is \$1,150.00 due in advance on the first day of each month and the tenants are responsible for payment of monthly utilities in the amount of 125.00. The tenants paid a security deposit of \$575.00 on December 7th. The tenants did not pay rent for March when it was due. On March 4, 2014 the landlord served the tenants with a Notice to End Tenancy for non-payment of rent by posting it to the door of the rental unit. The Notice declared that the tenants failed to pay rent of \$1,150.00 and utilities of \$125.00 that were due on March 1st. The tenants have not paid rent for March and they did not file an application to dispute the Notice to End Tenancy. The tenant said at the hearing that she offered to pay the rent on March 17th, but the landlord refused to accept it. She said at the hearing that she has secured other accommodation but will not be able to move out before the end of March.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenants 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 tenants do neither of these two things, the tenants are conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

Order of Possession - Based on the above background, evidence and analysis I find that the landlord is entitled to an order of possession effective two days after service on the tenants. This order may be filed in the Supreme Court and enforced as an order of that Court.

Monetary Order and Security Deposit - I find that the landlord has established a total monetary claim of \$1,275.00.00 for the outstanding rent and utilities for March. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$1,325.00. I order that the landlord retain the deposit and interest of \$575.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$750.00. 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: March 27, 2014

Residential Tenancy Branch

