



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This is an application filed by the Landlord for an order of possession and a monetary order for unpaid rent and utilities, to keep all or part of the security deposit and recovery of the filing fee.

The Landlord attended the hearing by conference call and gave undisputed testimony. The Tenants did not attend or submit any documentary evidence. The Landlord states that the Tenants were served with the notice of hearing package by Canada Post Registered Mail on February 14, 2014 and has submitted a copy of the Customer Receipt Tracking number as confirmation. The Landlord also states that an evidence package with amendments to the application was filed with the Residential Tenancy Branch on March 17, 2014 and served upon the Tenants by Canada Post Registered Mail on March 8, 2014.

It was also clarified with the Landlord that the late evidence package submitted by the Landlord on March 17, 2014 which includes additional claims and requests is being withdrawn. As no amended has been made to this portion of the Landlord's application no action is required and the Landlord is free to make any future claims in a new application for dispute resolution. The hearing shall proceed based upon the original application filed February 11, 2014.

The Landlord also states that the Tenant has since vacated the rental unit and is withdrawing their application for an order of possession. As such, no further action is required for this portion of the application as the Landlord now has possession of the rental.

The Landlord has also clarified that at this time the monetary claim portion for municipal utility charges is being withdrawn. As such, no further action is required.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to a monetary order?

Background and Evidence

The Landlord states that there is a signed fixed term tenancy agreement that started on October 1, 2013 (payable on the 1st of each month) where the monthly rent was \$1,300.00 and a security deposit of \$650.00 was paid.

The Landlord states that the Tenant failed to pay the entire rent for January 2014 of \$1,300.00 and is in arrears for \$200.00, as well as not paying any rent for February 2014 of \$1,300.00. The Landlord also states that the Tenants failed to pay municipal utility charges of \$259.83 for the period ending on December 31, 2013 for a total monetary claim of \$1,759.83. The Landlord states that the Tenants vacated the rental unit on or about February 21, 2014.

The Landlord states that a 10 day notice to end tenancy issued for unpaid rent dated January 10, 2014 which states that rent of \$1,300.00 was owed and not paid. The notice states an effective end of tenancy date of January 23, 2014. The Landlord states that an agreement was made to accept rent of \$1,100.00 on January 23, 2014 and the balance on February 7, 2014. The Landlord states that on February 7, 2014 the Tenants failed to comply and pay the outstanding arrears and as well did not pay rent for February 1, 2014. The Landlord states that a 10 day notice to end tenancy issued for unpaid rent dated February 9, 2014 with a stated effective end of tenancy date of February 19, 2014 which shows that rent of \$1,500.00 was owed in unpaid rent and \$259.83 was owed in unpaid utilities and not paid by the Tenants. The Landlord states that this notice was personally served upon the Tenants on February 9, 2014.

Analysis

I find that the Landlord reinstated the tenancy when he agreed to accept the late rent payment past the effective date of the 10 day notice to end tenancy issued for unpaid rent dated January 10, 2014. On this issue, the 10 day notice to end tenancy dated January 10, 2014 is set aside.

I accept the undisputed direct testimony of the Landlord that the Tenants were properly served with the 10 day notice to end tenancy issued for unpaid rent and utilities dated February 9, 2014. The Tenants did not pay the amount owed within the allowed time

frame and did not file an application for dispute resolution to dispute the notice and is conclusively presumed to have accepted that the tenancy was at an end. I am satisfied that the Tenants were properly served with the 10 day notice to end tenancy issued for unpaid rent and utilities. The Landlord has established a monetary claim of \$1,759.83. The Landlord is also entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$650.00 security deposit in partial satisfaction of this claim and I grant a monetary order under section 67 for the balance due of \$1,059.83. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Landlord is granted a monetary order for \$1,059.83.
The Landlord may retain the security deposit.

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 20, 2014

Residential Tenancy Branch

