



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Gateway Property Management Corporation
and [tenant name suppressed to protect privacy]

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 with the Application for Dispute Resolution and Notice of Hearing.

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 November 1, 2012. The rent is \$990.00 due in advance on the first day of each month. The tenants paid a security deposit of \$495.00 at the start of the tenancy. The tenant did not pay the full rent for February when it was due; there was a \$190.00 shortfall. The tenants did not pay the 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. After they received the Notice to End Tenancy at the end of March the tenants paid the landlord \$700.00. No further payments have been made since then. The landlord's agent testified that including rent due for April and May the tenants currently owe \$2,460.00 in unpaid rent. The tenants have told the landlord's agent that they are unable to pay the rent.

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 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 \$2,460.00 for the outstanding rent, including rent for April and May. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$2,510.00. I order that the landlord retain the deposit and interest of \$495.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$2,015.00. 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: May 14, 2014

Residential Tenancy Branch

