



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Despite having been personally served with the application for dispute resolution and notice of hearing on April 10, the tenants did not participate in the conference call hearing.

Issue to be Decided

Is the landlord entitled to an order of possession?
Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The landlord's undisputed evidence is as follows. The tenancy began on February 28, 2014 at which time the tenants paid a \$600.00 security deposit. Rent in the amount of \$600.00 is payable every other week. The tenants failed to pay the rent due on March 28 and on March 31 the landlord served on them a 10 day notice to end tenancy for unpaid rent (the "Notice"). The landlord testified that the tenants eventually paid the arrears, but after the 5 day timeframe provided in the Notice. When the landlord accepted this and subsequent rental payments, all of which were late, he told the tenants that if the tenant were to catch up on arrears, he would not pursue ending the tenancy. As of the date of the hearing, the tenants were still in arrears \$700.00, having failed to pay \$100.00 of one rental payment and missing the most recent payment altogether.

Analysis

I accept the landlord's undisputed testimony and I find that the tenants received the Notice on March 31 and that they failed to dispute the Notice or pay the overdue rent within 5 days and are therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. As the landlord clearly stated that he intended to proceed with the eviction if the tenants failed to catch up on arrears, I find that he has not reinstated the tenancy by accepting rent after the effective date of the Notice. I find that the landlord is entitled to an Order of Possession and I grant this Order which will be effective 2 days after service upon the tenants. Should the tenants fail to comply with the Order, it may be filed in the Supreme Court and enforced as an order of that Court.

I find that the tenants are \$700.00 in arrears and I find that the landlord is entitled to recover the full amount of the arrears in addition to the \$50.00 filing fee paid to bring his application for a total monetary entitlement of \$750.00. I order the landlord to retain the \$600.00 security deposit in partial satisfaction of the claim and I grant him a monetary order under section 67 for the balance due of \$150.00. 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 an order of possession and a monetary order for \$150.00.

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: June 03, 2014

Residential Tenancy Branch

