



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Tenants' application: CNR

Landlords' application: OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing was scheduled to deal with cross applications. The tenants applied to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. The landlords applied for an Order of Possession for unpaid rent or utilities; a Monetary Order for unpaid rent or utilities; and, authorization to retain the security deposit.

The tenants did not appear at the hearing. The landlord confirmed that he was served with the tenants' Application for Dispute Resolution and was prepared to respond to it. Since the tenants failed to appear at the hearing to deal with their Application for Dispute Resolution I dismissed it without leave to reapply.

With respect to the landlords' Application for Dispute Resolution the landlord testified that both copies were sent to the tenants in a single registered mail package on July 30, 2014. The landlord provided a registered mail tracking number and a print-out from Canada Post showing the registered mail was "successfully delivered" on August 1, 2014. The landlord had not requested a signature upon delivery of the registered mail and it was impossible to determine which tenant received the registered mail package. As the Act required that an Application for Dispute Resolution must be served upon each respondent within three days of filing I found the landlord failed to demonstrate that each tenant was served with the landlord's Application for Dispute Resolution in a manner that complies with the Act and I dismissed the landlords' Application for Dispute Resolution with leave to reapply.

During the hearing, the landlord orally requested an Order of Possession effective August 31, 2014 in recognition of the receipt of monies from the tenants for the month of August 2014.

Issue(s) to be Decided

Are the landlords entitled to an Order of Possession?

Analysis

Section 55(1) of the Act provides that an Order of Possession shall be granted to a landlord where:

- The tenant files to cancel a Notice to End Tenancy and the application is dismissed; and,
- The landlord orally requests an Order of Possession during the scheduled hearing.

I find all of the criteria of section 55(1) have been met and I grant the landlords' request for an Order of Possession effective August 31, 2014. Provided to the landlords with this decision is an Order of Possession effective at 1:00 p.m. on August 31, 2014.

Conclusion

The tenants' Application for Dispute Resolution to cancel a Notice to end Tenancy has been dismissed and the landlords provided an Order of Possession effective at 1:00 p.m. on August 31, 2014.

The landlords' Application for Dispute Resolution for monetary compensation has been dismissed with leave to reapply.

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: August 19, 2014

Residential Tenancy Branch

