



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution 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.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail on April 25, 2014. The landlord provided Canada post tracking numbers during the hearing. The tenants did not appear. I find that the tenants have been duly served in accordance with the Act.

The landlord's agent appeared, gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

Preliminary matter

At the outset of the hearing the landlord's agent stated that the tenants have vacated the rental premises and an order of possession is no longer required.

Issues to be Decided

Is the landlord entitled to a monetary order?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Is the landlord entitled to recover the cost of the filing fee?

Background and Evidence

Based on the testimony of landlord's agent, I find that the tenants were served with a notice to end tenancy for non-payment of rent, issued on April 4, 2014. The notice informed the tenant that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenant had five days to dispute the notice.

The landlord's agent stated although the tenants vacated the premises they failed to pay rent for April 2014. The landlord seeks to recover unpaid rent in the amount of \$1,137.09 and the \$25.00 insufficient fund fee they incurred.

Analysis

Based on the above, the testimony, and evidence, and on a balance of probabilities, I find as follows:

The tenants have not paid the outstanding rent and did not apply to dispute the Notice and are therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice. Although the landlord is entitled to an order of possession, the tenants vacated the premises and an order of possession is no longer required.

I find that the landlord has established a total monetary claim of **\$1,212.09** comprised of unpaid rent, the insufficient fund fee and the \$50.00 fee paid by the landlord for this application.

I order that the landlord retain the security deposit of **\$529.40** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$682.69**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

Conclusion

The tenants failed to pay rent and did not file to dispute the notice to end tenancy. The tenants are presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy. The tenants vacated the premises and an order of possession is no longer required.

The landlord is granted an order of possession, and may keep the security deposit in partial satisfaction of the claim. I grant a monetary order for the balance due.

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 13, 2014

