



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OLC, RP, PSF, O

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the “Application”) made by the Tenants for the following reasons:

- to cancel a notice to end tenancy for unpaid rent and utilities;
- for the Landlord to comply with the *Residential Tenancy Act* (the “Act”), regulation or tenancy agreement;
- for the Landlord to make repairs to the rental unit;
- for the Landlord to provide service or facilities agreed upon but not provided; and
- for ‘Other’ issues of which none were identified.

The Landlord named on the Application, who is an agent for the company in charge of this tenancy, appeared for the hearing with the site manager. The Landlord provided affirmed testimony during the hearing as well as written evidence in advance of the hearing. The Landlord confirmed receipt of the Tenants’ Application. However, the Tenants failed to appear for the ten minute duration of the hearing.

As the Tenants failed to appear for the hearing and the Landlord appeared and was ready to proceed, the Tenant has failed to present the merits of the Application which is hereby **dismissed without leave to re-apply**. The Landlord made an oral request for an Order of Possession during the hearing based on the following evidence.

A written tenancy agreement had been signed by the parties for a tenancy which commenced on April 1, 2014 for a fixed term of one year. Rent under the agreement is payable by the Tenants on the first day of each month in the amount of \$850.00. The Landlord personally served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the “Notice”) on June 13, 2014. The Notice was served due to \$850.00 in unpaid rent which was due on June 1, 2014 with an effective move out date of June 26, 2014.

The Landlord testified that the Tenants have still failed to pay rent and are still in rent arrears. The Landlord explained that the Tenants are claiming that the Landlord has failed to do repairs which were disputed by the Landlord.

Section 26(1) of the Act requires a Tenant to pay rent when it is due under the tenancy agreement **whether or not the Landlord complies with the Act**. A Tenant is not able to withhold rent due to an alleged failure of the Landlord to complete repairs to a rental suite of their own volition and neither is a Tenant allowed to withhold rent pending the outcome of a dispute resolution hearing. I accept the evidence of the Landlord that the Tenants are in rent arrears and have not paid full rent for June, 2014.

Section 55(1) of the Act states that if a Tenant makes an Application to dispute a Notice and the Application is dismissed, the arbitrator must grant an Order of Possession if the Landlord makes an oral request during the hearing. As the Landlord made an oral request, I grant the Landlord an Order of Possession pursuant to the Act. As the effective date of vacancy on the Notice has now passed, the order is effective two days after service on the Tenants.

Conclusion

For the reasons set out above, I dismiss the Tenants' Application in its entirety without leave to re-apply.

The Landlord is granted an Order of Possession which is effective **two days after service on the Tenants**. This order must be served onto the Tenants and if the Tenants fail to vacate the rental suite in accordance with the order, the order may be enforced in the Supreme Court 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: August 20, 2014

Residential Tenancy Branch

