



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords for an order of possession, for 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 November 18, 2014, the tenants did not appear. I find that the tenants have been duly served in accordance with the Act. Filed in evidence is a copy of the Canada post tracking number.

The landlords appeared, gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

Issues to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

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 landlords, I find that the tenants were served with a notice to end tenancy for non-payment of rent on October 8, 2014, by personal delivery, which was witnessed. The notice informed the tenants that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenants had five days to dispute the notice.

The landlords testified that the tenants have not paid any rent for October, November, and December 2014. The landlord's seek to recover unpaid rent in the amount of \$1,740.00.

The landlord testified that they also seek to recover the three late fees as the tenancy agreement provides a clause that if rent is late the tenant will be required to pay a \$20.00 late fee. The landlords seek to recover late fees in the amount of \$60.00.

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.

I find that the landlords are 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.

I find that the landlords has established a total monetary claim of **\$1,850.00** comprised of unpaid rent, late fees and the \$50.00 fee paid by the landlord for this application.

I order that the landlords retain the security deposit of \$290.00 in partial satisfaction of the claim and I grant the landlords an order under section 67 for the balance due of **\$1,560.00**.

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 landlord is granted an order of possession, and may keep the security deposit and interest 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: December 16, 2014

Residential Tenancy Branch

