



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession and a monetary order. Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail the Tenants did not appear.

Issue(s) to be Decided

- Is the landlord entitled to an order of possession and, if so, upon what terms?
- Is the landlord entitled to a monetary order and, if so, in what amount?

Background and Evidence

This one year fixed term tenancy commenced November 1, 2014. The monthly rent of \$1250.00 was due on the first day of the month. The tenants did not pay the security deposit requested.

The landlord testified that the tenant was served with a 10 Day Notice to End Tenancy for Non-Payment of Rent when it was handed personally to one of the tenants on December 2, 2014. That document includes information advising the tenant that the notice is cancelled if the tenant paid the arrears of rent within five days. It also advises that the tenant has five days to dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. The landlord testified that the tenants did neither.

The landlord testified that the tenants only paid \$1100.00 for November and nothing for December or January and the arrears total \$2650.00.

The landlord also testified that he inspected the rental unit on December 28, 2014. At that time he observed unauthorized pets and a large volume of garbage in the yards. He is expecting that rodents and other pests will have become a problem and will have to be eradicated before the unit can be re-rented. The police have been in frequent contact with the landlord about the tenants' activities at the rental unit. Because of all these factors he is concerned that the unit will not be in any condition to rent for February.

Analysis

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

The Tenant has not paid the outstanding rent and did not apply to dispute the Notice and is therefore conclusively presumed under section 46(5) of the *Residential Tenancy Act* to have accepted that the tenancy ended on the effective date of the Notice. Based on the above facts I find that the landlord is entitled to an order of possession effective two days after service on the Tenant.

I find that the landlord has established a total monetary claim of \$3950.00 comprised of arrears of rent for November, December and January in the amount of \$2650.00; anticipated loss of rental income for February in the amount of \$1250.00, and the \$50.00 fee paid by the landlord for this application and I grant the Landlord an order under section 67 in this amount.

Conclusion

- a. An order of possession effective two days after service on the Tenants has been granted. If necessary, this order may be filed in the Supreme Court and enforced as an order of that Court.
- b. A monetary order in favour of the landlord in the amount of \$3950.00 has been granted. If necessary, it may be filed in the Provincial Court (Small Claims) and enforced 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: January 14, 2015

Residential Tenancy Branch

