



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes mnr, mnsd, opr, ff

Introduction

The landlord applies for an Order of Possession, a Monetary Order; and an order to retain the security deposit.

I accept that the tenants were properly served with the Application for Dispute resolution hearing package by way of registered mail.

Issues to Be Decided

- Is the Notice to End Tenancy served upon the tenants effective to end this tenancy, and entitle the landlord to an Order of Possession?
- Is the amount claimed by the landlord in fact due and payable by the tenants?
- If so, is the landlord entitled to retain the deposit in partial satisfaction of the amount owing?

Background and Evidence

This tenancy began on April 1, 2014. Rent is due on the 1st day of each month in the amount of \$1,300.00. A security deposit of \$650.00 was paid in March, 2014. The landlord served the tenants with a 10-Day Notice to End Tenancy, by way of posting it January 2, 2015 upon the tenant's door, after not receiving rent for the month of January. The tenants did not pay the rent or apply for dispute resolution within the required five days of receiving the Notice to End Tenancy. No further rent has been paid.

Analysis

In the absence of the required rental payment, or a dispute of the notice within the 5 day period set out in the Notice, the tenants are conclusively presumed to have accepted the end of the tenancy agreement on the effective date of the Notice, by virtue of section 46(5)(a) of the Residential Tenancy Act. As the effective date of the Notice has passed, the landlord has established a right to possession.

The landlord is entitled to recover the rental arrears for January of \$1,300.00. I also accept that the landlord will suffer a loss of rental income for at least half the month of February, and award a further \$650.00. I further award recovery of the \$50.00 filing fee. The landlord may retain the security deposit in partial satisfaction of the award.

Conclusion

Pursuant to Section 55(2)(b) of the Residential Tenancy Act, I issue an Order of Possession effective 48 hours following service upon the tenants. Should the tenants fail to comply with this Order, the landlord may register the Order with the Supreme Court for enforcement.

The landlord is entitled to an award of \$2,000.00, representing the rental income loss and the filing fee. The security deposit including accrued interest to the date of this hearing, totals \$650.00. I order, pursuant to section 38(1)(d) that the full amount of the deposit be retained, in partial satisfaction of the monetary award noted above. I further order that the remaining balance of the award due to the landlord, equalling \$1,350.00, be paid immediately.

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: February 03, 2015

Residential Tenancy Branch

