



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 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 mail actually received on February 3, 2015, 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?
- Is the landlord entitled to retain the security deposit?

Background and Evidence

This fixed term tenancy commenced September 20, 2014 ending February 28, 2015, and continuing thereafter as a month-to-month tenancy. The monthly rent of \$3100.00 is due on the first day of the month. The tenants paid a security deposit of \$1500.00.

The landlord testified that the tenants were served with a 10 Day Notice to End Tenancy for Non-Payment of Rent by personal service on January 19, 2015. 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 is claiming pro-rated rent for September in the amount of \$1000.00. The landlord testified that the tenant had not paid the rent for September, October, December, January and February and the arrears total \$13,400.00.

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 *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 tenants.

I find that the landlord has established a total monetary claim of \$13,500.00 comprised of arrears of rent in the amount of \$13,400.00 and the \$100.00 fee paid by the landlord for this application. I order that the landlord retain the deposit of \$1500.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$12,000.00.

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 \$12,000.00 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: February 13, 2015

Residential Tenancy Branch

