



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords for an order of possession and a monetary order. Although served with the Application for Dispute Resolution and Notice of Hearing by personal service 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?

Background and Evidence

This month-to-month tenancy commenced February 27, 2010. The monthly rent of \$850.00 is due on the first day of the month. The landlords did not collect a security deposit or a pet damage deposit.

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 28, 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 testified that the tenants paid \$850.00 for the January rent on February 15, 2015. The landlords provided the tenants with a receipt that stated the payment was accepted for use and occupancy only. As of the date of the hearing the tenants had not paid the February rent but had offered it. The landlords were advised they could accept the payment as long as they provided the tenants with a receipt that stated that the payment was being accepted for use and occupancy only.

Analysis

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

The tenants did not pay the outstanding rent within the time required 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. As the landlords expect to receive the February rent the effective date of the order of possession will be February 28, 2015.

I find that as of the date of the hearing the landlords had established a total monetary claim of \$900.00 comprised of the unpaid rent for February and the \$50.00 fee paid by the landlords for this application and I grant the Landlord an order under section 67 in this amount.

Conclusion

- a. An order of possession effective 1:00 pm, February 28, 2015, 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 landlords in the amount of \$900.00 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 24, 2015

Residential Tenancy Branch

