



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This hearing was convened by way of conference call in response to the landlords' application for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent.

Service of the hearing documents, by the landlords to the tenants, was done in accordance with section 89 of the *Act*; served by registered mail on February 26, 2015. Canada Post tracking numbers were provided by the landlords in documentary evidence. The tenants were deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlords appeared, gave sworn testimony, were provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenants, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Are the landlords entitled to an Order of Possession due to unpaid rent?
- Are the landlords entitled to a Monetary Order to recover unpaid rent?

Background and Evidence

The landlords testified that this month to month tenancy started on June 14, 2014. Rent for this unit is \$1,100.00 per month. Rent is due on the first of each month. The landlords have provided a copy of the tenancy agreement in documentary evidence.

The landlords testified that the tenants failed to pay all the rent for January and February, 2015 leaving an unpaid balance of \$313.39 for January and \$739.34 for February. The landlords issued a 10 Day Notice to End Tenancy for unpaid rent (the Notice) on February 07, 2015. The Notice was posted to the tenants' door. The Notice states that the tenants owe rent of \$1,071.68 that was due on February 01, 2015. The tenants had five days to either pay the outstanding rent or apply for Dispute Resolution or the tenancy would end on February 17, 2015. The landlords testified that informed the tenants they could remain in the unit until the end of February, 2015.

The tenants did not pay the outstanding rent or dispute the Notice within five days. Since that time the tenants have also failed to pay all the rent for March, 2015. Welfare paid a portion of the tenants' rent but the balance of \$733.34 remains outstanding. The landlords orally requested to amend the application to include the unpaid rent for March, 2015 as the tenants continue to reside in the rental unit. The landlords seek a Monetary Order to recover unpaid rent of \$1,789.07. The landlords seek an Order of Possession to take effect within two days of service.

Analysis

Section 26 of the *Act* states:

A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

Consequently, I am satisfied with the undisputed evidence before me that the tenants have failed to pay rent for January, February and March to an amount of \$1,789.07. I will allow the landlord to amend the application to include unpaid rent for March as the tenants have continued to reside in the rental unit and would be aware that rent was due on March 01, 2015. The landlords are entitled to a Monetary Order to the sum of **\$1,789.07** pursuant to s.67 of the *Act*.

I have reviewed all documentary evidence and accept that the tenants have been served with Notice to End Tenancy pursuant to section 88 of the *Residential Tenancy Act*. The Notice is deemed to have been received by the tenants on February 10, 2015, three days after it was posted to the tenants' door. I am satisfied from the undisputed testimony that the tenants were informed that they must vacate the unit at the end of February, 2015. The Notice states that the tenants have five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenants did not pay the outstanding rent within five days nor did the tenants apply to dispute the Notice to End Tenancy within five days.

Based on the foregoing, I find that the tenants are conclusively presumed, under section 46(5) of the *Act*, to have accepted that the tenancy ended on February 28, 2015. As this date has since passed I grant the landlords an Order of Possession effective two days after service upon the tenants pursuant to section 55 of the *Act*.

Conclusion

For the reasons set out above, I grant the landlords a Monetary Order pursuant to Section 67 and 72(1) of the *Act* in the amount of **\$1,789.07**. This Order must be served on the Respondents and may then be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court if the Respondents fail to comply with the Order.

I HEREBY ISSUE an Order of Possession in favour of the landlords effective **two days** after service on the Respondents. If the Respondents fail to comply with the Order, the Order may be filed in the Supreme Court 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: March 25, 2015

Residential Tenancy Branch

