



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

INTERIM DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, ERP, PSF, RR, FF

Introduction

In the first application the tenants seek a monetary award for compensation for damage or loss for the landlord's alleged failure to carry out his obligations, for emergency repairs, for an order that the landlord provide required services of facilities, to suspend the landlord's right of entry and for a rent reduction.

Although the tenants' application form does not specifically note it, they also seek to cancel a ten day Notice to End Tenancy received March 8, 2015. I amend their application accordingly.

In the second application the landlord seeks an order of possession pursuant to the ten day Notice and for a monetary award for unpaid rent.

Due to time constraints, consideration of the volume of material filed in support of the tenants' claim and considering their request for more time to file additional material, the hearing of the tenants' claim was adjourned to **May 13, 2015 at 1:00 o'clock in the afternoon**. The parties will receive a separate letter confirming that adjournment. The dial-in telephone number and passcode should remain the same but the parties will be governed by the number and passcode in the new hearing letter.

It is directed that if the tenants wish to submit more evidence they must file it with the Residential Tenancy Branch and provide the landlord with a copy on or before five o'clock in the afternoon on April 24, 2015. If the landlord wishes to file material in response to the tenants' new material he must file it with the Residential Tenancy Branch and provide the tenants with a copy on or before five o'clock in the afternoon on May 5, 2015.

Issue(s) to be Decided

The issues at this hearing were confined to the question of whether or not the ten day Notice is a valid Notice and what if anything the landlord is owed for rent. The issues were addressed based on the relevant evidence presented at hearing, weighed on a balance of probabilities.

Background and Evidence

The rental unit is an older, three-bedroom house located on an acre of property. The tenancy started in December 2012, initially for a six month fixed term and then on a month to month basis. The monthly rent is currently \$900.00, due in advance, on the first of each month. The landlord holds a \$450.00 security deposit.

The Notice in question demands that the tenants pay \$1350.00 in rent that was alleged to be due on March 1, 2015.

At hearing the tenant Mr. McN. put forward the view that he was uncertain about how much rent was owed and wanted the amount determined at this hearing. However, he ultimately agreed that \$1350.00 was the right figure and that as of March 8, 2015, the amount demanded in the Notice was the correct amount of rent then due.

The tenants did not pay that amount within the five days following service of the Notice or after. They have not paid or tendered the \$900.00 rent that came due April 1, 2015.

The tenants have a number of complaints regarding a variety of items and incidents that have occurred. These will be addressed at the next hearing on May 13, 2015. They do not provide evidence to support the withholding of rent for any emergency repair or to offset any prior award of money made to them.

Analysis

Section 26 (1) of the *Residential Tenancy Act* (the “Act”) provides:

26 (1) 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.

Though it may be proved that the tenants have valid grounds for a monetary award against the landlord or are entitled to a reduction of rent, until then they are obliged by this section to continue to pay rent as it comes due.

I find that they have not.

The ten day Notice served by the landlord on March 8, 2015 was a valid Notice for the correct amount of arrears. The tenants failed to pay the rent due within the following five days and as a result, by operation of s.46 of the *Act*, this tenancy ended ten days after the Notice was served: March 18, 2015.

As the tenancy has ended, the landlord is entitled to an order of possession. As there has been no money paid to the landlord as rent or for use and occupation of the premises pending this hearing, there will be an immediate order of possession, requiring the tenants to return vacant possession of the premises to the landlord within 48 hours after a copy of the order of possession is personally served on either tenant or within 72 hours after a copy is attached to a door to the premises, whichever occurs first.

The landlord is owed \$1350.00 for rent due in March plus \$900.00 for loss of rental income from April 2015. I grant him a monetary award of \$2250.00 plus recovery of the \$50.00 filing fee for his application. I refrain from issuing a monetary order to the landlord, pending the outcome of the tenants' claim.

Conclusion

The ten day Notice is upheld. The landlord will have an order of possession and a monetary award of \$2300.00.

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: April 17, 2015

Residential Tenancy Branch

