



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, OPR,, OPB, MNR, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. The hearing was conducted by conference call. The named landlord called in and participated in the hearing. The tenants did not appear although they were personally he was served with the Application for Dispute Resolution and Notice of Hearing on May, 9, 2015.

Issues

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order?

Is the landlord entitled to an order allowing retention of the security deposit?

Background and Evidence

This tenancy began on May 15, 2014. The rent is \$1,100.00 due in advance on the first day of each month. The tenants paid a security deposit of \$550.00 at the start of the tenancy. On April 21, 2015 the landlord served the tenants with a one month Notice to End Tenancy for cause. The tenants did not pay rent for May, 2015 when it was due and the landlord personally served the tenants with a 10 day Notice to End Tenancy for unpaid rent on May 2, 2015. The tenants have not paid rent for May or for June and they continue to occupy the rental unit. They have not applied to dispute the Notice to End Tenancy for unpaid rent. According to the landlord, the tenants have said they intend to move out at the end of June.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the

arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenants do neither of these two things, the tenants are conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

Order of Possession - Based on the above background, evidence and analysis I find that the landlord is entitled to an order of possession effective two days after service on the tenants. This order may be filed in the Supreme Court and enforced as an order of that Court.

Monetary Order and Security Deposit - I find that the landlord has established a total monetary claim of \$2,200.00 for the outstanding rent for February and March. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$2,250.00. I order that the landlord retain the deposit and interest of \$550.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1,700.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

The landlord has leave to apply for a further monetary order for costs that may be incurred for cleaning and repairs, including lawn cutting, yard work and possible loss of rental income once the tenancy has ended.

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: June 23, 2015

Residential Tenancy Branch

