



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 registered mail sent on August 27, 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 month-to-month tenancy commenced July 1, 2014. The monthly rent of \$775.00 is due on the first day of the month. The tenants paid a security deposit of \$387.50.

The landlord testified that the tenants were served with a 10 Day Notice to End Tenancy for Non-Payment of Rent when it was posted to the door of the rental unit on August 11, 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 when the notice was served on the tenants the August rent had not been paid. The tenants made some payments toward the August rent and by August 27 the arrears of rent had been reduced to \$125.00. The landlord filed this application for dispute resolution on that date. He has never been served with an application for dispute resolution by the tenants.

On August 28 the tenants paid \$200.00 towards rent. This paid the August rent in full and left a credit of \$75.00 to be applied to the September rent. The tenants paid the balance September rent in three installments through the month.

The tenants have not paid anything for the October rent.

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 in full within the five day period 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 \$\$825.00 comprised of the October rent in the amount of \$775.00 and the \$50.00 fee paid by the landlord for this application. I order that the Landlord retain the deposit of \$387.50 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of \$437.50.

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 \$437.50 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: October 08, 2015

Residential Tenancy Branch

