



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNR, MNDC, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. A Monetary Order for compensation - Section 67; and
4. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

Preliminary Matter

It was noted during the hearing that the application does not include any detail on the monetary claim amount or on the claim for rent and compensation. The Parties confirmed that some rental amount is outstanding from September 2015 and that all rent was paid for October 2015. The Landlord confirmed that a hearing has been scheduled for December 2015 in relation to the Landlord’s claim for unpaid rent including the rents claimed in this current application. The Landlord states that the Tenants are aware of the Supreme Court order requiring the vacancy of the unit by the Tenants. As the Landlord has not included any detail of unpaid rent in this current application and considering the Landlord’s evidence that another application has been made dealing with this same rental claim, I consider that the Landlord has in effect

acted to withdraw this current rent and compensation claim and considering that this dispute has been scheduled to be heard in the future, I accept that withdrawal.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Background and Evidence

The following are undisputed facts: A written tenancy agreement was not provided as evidence for this dispute however there is a written tenancy agreement that names all four Respondents. The tenancy of the basement suite started on November 1, 2014. Although the written tenancy agreement indicates a monthly rental amount of \$2,000.00 payable on the first day of each month, the rental amount is only \$1,800.00 and each of the Respondents pay an equal share of \$450.00 per month.

On August 1, 2015 the Landlord served the Tenants in person with a one month notice to end tenancy for cause (the "Notice"). The Tenants did not dispute the Notice and have not moved out of the unit. The Landlord states that the tenancy has to end due to an order from the Supreme Court submitted as evidence for this dispute.

Analysis

Section 47(5) of the Act provides that if a tenant who has received a notice to end tenancy for cause and does not make an application for dispute resolution within 10 days of receiving that notice, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date. Section 55(2) of the Act provides that a landlord may request an order of possession of a rental unit where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the notice by making an application for dispute resolution and the time for making that application has expired.

Based on the undisputed evidence that the Landlord gave the Tenants the Notice and considering that the Tenants have not disputed the Notice and have not moved out of

the unit I find that the Landlord is entitled to an order of possession. As the Landlord has taken rental monies for October 2015 I make the order of possession effective October 31, 2015. As the Landlord's application in relation to the order of possession has had merit I find that the Landlord is entitled to recovery of the \$50.00 filing fee.

Conclusion

I grant an order of possession to the Landlord effective 1:00 p.m. on October 31, 2015.

I grant the Landlord an order under Section 67 of the Act for **\$50.00**. If necessary, this order may be filed in the Small Claims 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: October 22, 2015

Residential Tenancy Branch

