



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

AMENDED DECISION

Dispute Codes CNR, FF

Introduction

This hearing was convened in response to applications by the tenants and the landlords

The tenants' application is seeking orders as follows:

1. To allow a tenant more time to make an application to cancel a notice to end tenancy;
2. To cancel a 10 Day Notice to End Tenancy for Unpaid Rent, issued on August 2, 2015;
3. To Cancel a 1 Month Notice to End Tenancy for Cause, issued on July 31, 2015;
4. For a monetary order for damage or loss; and
5. To recover the cost of filing the application.

The landlords' application is seeking orders as follows:

1. For an order of possession;
2. For monetary order for unpaid rent; and
3. To recover the cost of filing the application.

The landlords appeared gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

Tenants' application

This matter was set for hearing by telephone conference call at 9:30 A.M on this date. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the landlord. Therefore, as the tenant did not attend the hearing by 9:40 A.M, and the Respondent appeared and was ready to proceed, I dismiss the tenants' application without leave to reapply.

Landlords' application

The landlords attended the hearing. As the tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlords testified the Application for Dispute Resolution and Notice of Hearing were served on the tenant RF, in person on August 24, 2015.

The landlords testified the Application for Dispute Resolution and Notice of Hearing were served on the tenant TB, by registered mail sent on September 1, 2015.

Based on the above testimony of the landlords, I find that the tenants have been duly served in accordance with the Act.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to relevant facts and issues in this decision.

Issue to be Decided

Are the landlords entitled to an order of possession?

Are the landlords entitled to a monetary order?

Background and Evidence

Based on the testimony of the landlords, I find that the tenants were served with a notice to end tenancy for non-payment of rent on August 9, 2015, by courier, which the package was successfully delivered on August 11, 2015.

The notice informed the tenants that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenants had five days to dispute the notice.

The landlords testified that the tenants monthly rent is \$1,250.00 and that the tenants have not paid any rent for August 2015, September 2015, and October 2015. The landlords seek a monetary order for unpaid rent in the amount of \$2,750.00 and an order of possession.

Analysis

Based on the above, the testimony, and evidence, and on a balance of probabilities, I find as follows:

The tenants have not paid the outstanding rent and did not apply to dispute the notice the Notice issued on August 9, 2015, and are therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the landlords are entitled to an order of possession, pursuant to section 55 of the Act, 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.

I find that the landlords have established a total monetary claim of ~~\$2,800.00~~ **\$3,800.00** comprised of unpaid rent for August 2015, September 2015, ~~August~~ October 2015 and the \$50.00 fee paid by the landlords for this application. I grant the landlords an order pursuant to section 67 of the Act, in the above amount. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

The **tenants are cautioned** that costs of such enforcement are recoverable from the tenants.

Since the order of possession was granted to the landlord based on unpaid rent, I find it not necessary for me to consider the 1 Month Notice to End Tenancy for Cause, issued on July 31, 2015.

Conclusion

The tenants failed to pay rent and did not file to dispute the notice to end tenancy issued on August 9, 2015. The tenants are presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlords are granted an order of possession and a monetary order I the above mentioned amount.

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 16, 2015

Residential Tenancy Branch

This decision is amended pursuant to section 78 of the Act – November 2, 2015

