



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Triumph Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, 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 landlord's representative and the tenants called in and participated in the hearing.

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 December 1, 2009. The monthly rent is \$850.00 due in advance on the first day of each month. The tenants paid a security deposit of \$425.00 at the start of the tenancy. The tenants did not pay did not pay rent for September or October, 2015 when it was due and as of October 1st they were in arrears of rental payments in the amount of \$3,350.00. On October 2, 2015 the landlord personally served the tenants with a Notice to End Tenancy for non-payment of rent. The tenants have made no rent payments since they received the Notice to End Tenancy and they have not filed an application to dispute the Notice to End Tenancy.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenants 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. The landlord's

representative did not request an immediate order for possession; instead the landlord sought an order to be effective December 31, 2015. The landlord's representative said that the landlord may be prepared discuss a continuation of the tenancy for some further period if the tenants are prepared to make significant payments on account of the rental arrears.

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 December 31, 2015 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 \$5,050.00 being the outstanding up to and including rent for December. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$5,100.00. I order that the landlord retain the deposit and interest of \$425.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$4,675.00. 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: December 23, 2015

Residential Tenancy Branch

