



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Codes: MNR, MOPR, FF

Introduction:

This was a Review Hearing pursuant to section 82 of the Act of a decision dated October 22, 2015 in which the landlord's application for a Monetary Order was partially allowed and the application for an Order for Possession pursuant to a Notice to End a Tenancy for Non-payment of Rent dated October 2, 2015 was dismissed. Only the landlord attended this hearing.

Issues:

Is the landlord entitled to an Order for Possession and Monetary Order?

Service of Documents:

The landlord's agent testified that he served the Notice to End the tenancy dated October 2, 2015 on October 2, 2015 by handing it to the tenants and the original dispute resolution package by handing it to the tenants on December 7, 2015. The landlord testified that he sent the Notices of Review Hearing and evidence by registered mail to both tenants on January 13, 2016. Based on the evidence of the landlord and his agent I find that the tenants were personally served with a Notice to End Tenancy for non-payment of rent on October 2, 2015 and the application for Dispute Resolution on December 7, 2015. Upon review of the Canada Post web site I find that the tenants were served by registered mail with the Notice of Review Hearing on January 14 and January 26, 2016.

Background and Evidence:

The landlord testified that the tenancy began on April 1, 2015 with rent in the amount of \$ 1,350.00 due in advance on the first day of each month. The tenants paid a security deposit of \$ 675.00 on March 10, 2015. The landlord testified that the arrears from

December 2015 I through February 2016 \$ 1,390.00 and that the tenants were responsible for late payment fee of \$ 25.00 for a total claim of \$ 1,415.00. The landlord asked for an Order for Possession and a monetary Order.

Analysis:

The tenants have not paid all the outstanding rent on time and have not applied for arbitration to dispute the Notice and is therefore are conclusively presumed 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 for possession effective two days after service on the tenants. I find that the landlord has established a claim for unpaid rent totalling \$ 1,415.00 however as the landlord has only specified \$ 675.00 in the Application for Dispute Resolution I allow only that amount and the filing fee of \$ 50.00.

Conclusion:

Pursuant to section 82 of the Act I have varied the Decision and Order of October 22, 2015. I have granted the landlord an Order for Possession. This order may be filed in the Supreme Court and enforced as an Order of that Court. I order that the landlord retain the deposit and interest of \$ 675.00 and I grant the landlord an order under section 67 for the balance due of **\$ 50.00**. This order may be filed in the Small Claims Court and enforced as an order of that Court. This Decision and Orders must be served on the tenants as soon as possible. I give the landlord leave to reapply for any balance of unpaid rent in addition to any other monetary claims.

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: February 15, 2016

Residential Tenancy Branch