



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Haven Management Co. Ltd. DBA Haven Properties
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, OPR

Introduction

This is an application brought by the Landlord(s) requesting an Order of Possession based on a Notice to End Tenancy for nonpayment of rent, and requesting a Monetary Order for that outstanding rent.

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties

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All parties were affirmed.

Issue(s) to be Decided

The issues are:

- Have the landlords established the right to an Order of Possession.
- Have the landlords established a monetary claim against the tenant, and if so in what amount.

Background and Evidence

The landlord testified that the tenants had fallen substantially behind on the rent and therefore on December 10, 2015 a 10 day Notice to End Tenancy was posted on the tenant's door.

The landlord further testified that the tenants failed to comply with that 10 day notice, and failed to pay the full outstanding rent, although some rent was collected for use and occupancy only.

The landlord further testified that, as of today's date, there is a total of \$2425.00 in rent outstanding, and therefore they are requesting an Order of Possession for as soon as possible and a Monetary Order for that outstanding rent.

The tenants testified that they do not dispute that there is a substantial amount of rent outstanding, however they are willing to pay a portion of the rent now, and will pay the remainder of the rent once the landlord does some repairs that have been promised.

The tenants further testified that they withheld rent because the landlord did not do repairs that they had agreed to.

Analysis

Section 26 of the Residential Tenancy Act states:

26 (1) A tenant must pay rent when it is due under the tenancy agreement, **whether or not the landlord complies with this Act, the regulations or the tenancy agreement**, unless the tenant has a right under this Act to deduct all or a portion of the rent. (My emphasis)

Therefore the tenants did not have the right to withhold rent, and pursuant to section 46 of the Residential Tenancy Act the landlord had the right to end the tenancy.

Section 46 of the Residential Tenancy Act states:

46 (1) A landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end the tenancy effective on a date that is not earlier than 10 days after the date the tenant receives the notice.

Therefore it is my finding that the landlord has the right to an Order of Possession as the tenants have been served with a valid 10 day Notice to End Tenancy and have failed to comply with that notice, and have not paid the full outstanding rent.

It is also my finding that the landlord has shown that, as of today's date, there is a total of \$2425.00 in rent outstanding, and I therefore also allow the landlords claim for that outstanding rent.

Conclusion

Pursuant to section 55 of the Residential Tenancy Act, I have issued an Order of Possession that is enforceable two days after service on the tenants.

Pursuant to section 67 of the Residential Tenancy Act I have issued a Monetary Order for the tenant to pay \$2425.00 to the landlords

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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: March 09, 2016

Residential Tenancy Branch

