



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, FF

Introduction

This was a hearing with respect to the landlord's application for an order of possession and a monetary order for unpaid rent. The hearing was conducted by conference call. The landlord called in and participated in the hearing. The tenants did not attend. The landlord served the tenants with the application and Notice of Hearing by registered mail sent on February 15, 2016.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary award and if so, in what amount?

Background and Evidence

The rental unit is a house in Surrey. The tenants responded to an advertisement and met the landlord at the rental unit. The landlord and the tenants signed a tenancy agreement on November 23, 2015 to rent the house commencing December 1, 2015 at a monthly rent of \$2,200.00. The tenant paid the landlord a security deposit of \$1,100.00 in cash on November 23, 2015. The landlord did not request any proof of identity from the tenants.

The landlord testified that the tenants paid him \$2,600.00 in cash on December 5, 2015 and they moved into the rental unit the same day.

The tenants have made no further rent payments since December 5, 2015. The landlord served the tenants with a 10 day Notice to End Tenancy dated February 4, 2016. The Notice to End Tenancy was served by handing a copy to an adult occupant of the rental unit on February 4, 2016 and by posting a copy to the door of the rental unit on the same day.

The landlord testified that the tenants attempted to make a rent payment by means of a forged government cheque. The landlord said that the police have attended at the rental unit on his behalf. The landlord said that there are strangers living in the rental

unit and the current whereabouts of the tenants are unknown. The landlord said that the police have told him that he should obtain an order from the Residential Tenancy Branch to evict the occupants of the rental unit.

Analysis

The landlord has not received any rent payment since December. Rent is outstanding for January, February and March. I find that the landlord served the tenants with a 10 day Notice to End Tenancy on February 4, 2016, by handing a copy to an adult occupant and by posting a copy to the door of the rental unit.

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.

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 two days after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that Court.

The landlord applied for a monetary award. Because the named tenants apparently moved out of the rental unit, before the documents were sent by registered mail, I find that the application was not served in accordance with section 89 of the *Residential Tenancy Act* as required when a claim for a monetary award is sought and I therefore dismiss the landlord's application for a monetary award with leave to reapply.

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 30, 2016

Residential Tenancy Branch