



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

The landlords apply for an order of possession pursuant to a ten day Notice to End Tenancy dated February 6, 2017 and for a monetary award for unpaid rent.

The listed parties attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

Issue(s) to be Decided

Has the ten day Notice resulted in an end to the tenancy entitling the landlords to an order of possession? What, if anything are the landlords owed for rent?

Background and Evidence

The facts are not in disputed. The rental unit is a three bedroom basement suite in the landlords' home, occupied by the tenant and her three children.

The tenancy started in September 2016. The monthly rent is \$1500.00, due on the first of each month. The landlords hold a \$750.00 security deposit.

The tenant is in arrears of January 2017 rent in the amount of \$300.00. She did not pay February or March 2017 rent. Earlier in March she was able to pay the landlords \$1400.00 towards arrears.

The tenant received the ten day Notice on February 6. She did not pay the \$1800.00 demanded in it within five days nor did she apply to cancel that Notice.

Analysis

Section 46 of the *Residential Tenancy Act* (the “*Act*”) provides that in such circumstances a tenant is “conclusively deemed” to have accepted the end of the tenancy on the effective date of the Notice.

The tenant is in difficult circumstances. She has three children to support and receives no financial assistance from either of the two fathers of the three. She is limited to government assistance and what work she can find. She cannot afford the child care necessary in the event she finds a full time job.

The *Act* does not permit me to consider these factors in determining the effect of the Notice nor to, in effect, force the landlord to become the tenant’s unsecured creditor.

By operation of law this tenancy ended on February 17, 2017 and the landlords are entitled to an order of possession.

The landlords are owed \$1900.00 for rent arrears and occupation rent up to and including the month of March 2017. They are also entitled to recover the \$100.00 filing fee for this application.

Conclusion

The landlords will have an order of possession.

The landlords are entitled to a monetary award totalling \$2000.00. I authorize them to retain the \$750.00 security deposit in reduction of the award. There will be a monetary order against the tenant in the amount of \$1250.00.

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 21, 2017

Residential Tenancy Branch