



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNDC, MNR, OPR, MNSD

Introduction

This is an application brought by the Landlord requesting an Order of Possession based on a Notice to End Tenancy that was given for nonpayment of rent, requesting a monetary order in the amount of \$4760.00, and requesting recovery of the \$100.00 filing fee.

The applicant testified that the respondent(s) were served with notice of the hearing by personal service on April 7, 2017; however the respondent(s) did not join the conference call that was set up for the hearing.

It is my finding that the respondent(s) have been properly served with notice of the hearing and I therefore conducted the hearing in the respondent's absence.

All testimony was taken under affirmation.

Issue(s) to be Decided

The issues are, whether or not the applicant has the right to an Order of Possession, and whether or not the applicant has established monetary claim against the respondents, and if so in what amount.

Background and Evidence

The applicant testified that this tenancy began on December 1, 2016, with a monthly rent of \$1150.00, due on the first of each month.

The applicant further testified that the tenants paid a portion of the security deposit; however that has been fully returned to the tenants, as the tenants told her they were having financial difficulties and she therefore return their full deposit.

The applicant further testified that she also returned \$160.00 of the December 2016 rent because, again, the tenants stated they were having financial difficulties and said they would repay the amount at a later date. This amount was never repaid.

The applicant further testified that the tenants have paid no rent for the months of January 2017 through April 2017 for a total of \$4600.00.

The applicant further testified that she waited too long to file for dispute resolution because the respondents kept promising the rent and kept telling her they had been the victims of fraud.

The applicant is therefore requesting a monetary order as follows:

December 2016 rent outstanding	\$160.00
January 2017 rent outstanding	\$1150.00
February 2017 rent outstanding	\$1150.00
March 2017 rent outstanding	\$1150.00
April 2017 rent outstanding	\$1150.00
Filing fee	\$100.00
Total	\$4860.00

The applicant further testified that the tenants were personally served with a 10 day Notice to End Tenancy on February 24, 2017 however they failed to comply with that notice. She further stated that it does appear they may have vacated in the middle of the night last night; however they left a large amount of belongings behind.

Analysis

Although the tenants had claimed to the landlord that they had been the victims of fraud, it would appear that it is the landlord who has been the victim of fraud in this case. It appears the tenants have used the landlord's good nature to, in effect, extort money from her, by claiming hardship and by promising to pay rent that was never forthcoming.

It is my finding that the landlord has shown that there is a total of \$4760.00 in rent outstanding and I therefore allow that portion of the landlords claim.

I also accept the landlord's testimony that the tenants full security deposit has been returned, and therefore I will not make any deductions from the rent outstanding.

It is my finding that the landlord has served the tenants with a valid 10 day Notice to End Tenancy, and the tenants have failed to pay any further rent, or comply with that notice, and therefore the landlord does have the right to an Order of Possession. The landlord stated that she believes the tenants have vacated the rental unit, however, in the abundance of caution, I will also issue an Order of Possession.

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 respondents.

Pursuant to section 67 and 72 of the Residential Tenancy Act, I have issued a monetary order in the amount of \$4860.00.

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: April 27, 2017

Residential Tenancy Branch