



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, for a monetary order for unpaid rent or utilities, for an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee from the tenants.

Both parties appeared gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

Issues to be Decided

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary order?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

Based on the testimony of the landlord's agent, I find that the tenants were served with a notice to end tenancy for non-payment of rent on March 9, 2017, by posting to the door. The notice informed the tenants that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenants had five days to dispute the notice.

The tenant agreed they did not pay the full amount of rent within five day and they did not dispute the notice to end tenancy.

The parties agreed the current rent owe \$2,350.00 in unpaid rent.

The landlord stated that they seek an order of possession effective May 15, 2017, as they are hopeful that the tenants will have paid the majority of the outstanding rent by then.

Analysis

Based on the above, the testimony, and evidence, and on a balance of probabilities, I find as follows:

The tenants have not paid the outstanding rent, did not apply to dispute the notice, and are therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

Although the landlord is entitled to an earlier order of possession, the landlord has agreed to extend the effective date to May 15, 2017. I find that the landlord is entitled to an order of possession, pursuant to section 55 of the Act, effective **May 15, 2017**. This order may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord has established a total monetary claim of **\$2,450.00** comprised of unpaid rent up to and including May 2017, and the \$100.00 fee paid by the landlord for this application.

In normal circumstance the outstanding rent would be offset with the security deposit; however, if the outstanding rent gets paid before the effective date of the order of possession and the landlord agrees to continue the tenancy, I find it appropriate not to offset the security at this time. Should the tenancy end and the amount remains outstanding landlord the is entitled to retain that amount from the security deposit and pet damage deposit as set out in section 38(3) of the Act.

Conclusion

The tenants failed to pay rent and did not file to dispute the notice to end tenancy. The tenants are presumed under the law to have accepted that the tenancy ended on the effective date of the notice to end tenancy.

The landlord is granted an order of possession, and a monetary order in the above amount.

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: May 08, 2017

Residential Tenancy Branch