



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, CNR, OPB, MNR, MNDC, MNSD, FF

Introduction

The landlords and the tenants convened this hearing in response to applications.

The landlords' application is seeking orders as follows:

1. For an order of possession;
2. For a monetary order for unpaid rent; and
3. To recover the cost of filing the application.

The tenants' application is seeking orders as follows:

1. To cancel a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") and
2. To have the landlord complete emergency repairs.

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

Should the Notice be cancelled or upheld?

Is the landlord entitled to a monetary order?

Should the landlord be order to complete emergency repairs?

Background and Evidence

The landlord testified that the tenants were served with the Notice on July 21, 2017, in person, indicating \$468.00 of rent was owed. The landlord stated the tenants only paid \$100.00 towards outstanding rent, leaving a balance due of \$368.00.

The landlord testified that rent for August was paid. The landlord stated that the tenants failed to pay the rent increase of \$26.00 that was served on EH, which was effective September 1, 2017. The landlord stated that the rent increase for both September 2017 and October 2017, remain outstanding. The landlord stated that they seek an order of possession and a monetary order for unpaid rent in the amount of \$521.00.

The tenants acknowledged that they received the Notice on July 21, 2017. The tenants stated that the landlord agreed if they paid \$100.00 towards the outstanding rent that they would waive the balance due and they would cancel the Notice.

The tenants testified that they did not receive a notice of rent increase from the landlord.

Upon questioning the tenant EH, they acknowledged that they received the rent increase; however, they stated it was posted on their door, not served in person and that they are unable to read so they just put the document to the side. EH stated it is up to social services to pay the increase.

The landlord responded that they never agreed that they would cancel the Notice if the tenants only paid \$100.00. The landlord stated they were having other problems with the tenants breaching the tenancy agreement.

Analysis

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

In this case, both parties agreed that the tenants did not pay the full rent within 5 days. The evidence of the tenants was that the landlord agreed to cancel the Notice if they paid the amount of \$100.00 and balance would be waived. The landlord denied any such agreement was made with the tenants.

I accept the evidence of the landlord that they did not agreed to cancel the Notice as their actions of filing for an order of possession on July 31, 2017, support their position. Further, I question the credibility of the tenants as they denied they ever received a notice of rent increase; however, after being questioned EH changed their testimony and confirmed one was received on their door.

I find the tenants failed to pay the full rent owed within five days as required by the Act. I find the Notice is valid. Therefore, I dismiss the tenants' application to cancel the Notice. As the tenancy has legally ended, I decline to hear the issue of emergency repairs.

I find that the landlords are entitled to an order of possession, pursuant to section 55 of the Act, effective **two days** after service on the tenants. This order may be filed in the Supreme Court and enforced as an order of that Court. The **tenants are cautioned** that costs of such enforcement are recoverable from the tenants.

Although the landlord indicated the amount of \$421.00, in rent is owed, I find that the landlords have established a total monetary claim of \$520.00 comprised of unpaid rent for July \$368.00, September \$26.00, October \$26.00 and the \$100.00 fee paid by the landlords for this application. I grant the landlords an order pursuant to section 67 of the Act. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The **tenants are cautioned** that costs of such enforcement are recoverable from the tenants.

Conclusion

The tenants failed to pay the full rent within five days. The tenants' application is dismissed.

The landlords are granted an order of possession, and a monetary order for unpaid rent.

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: October 11, 2017

Residential Tenancy Branch