



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This matter commenced as an Ex parte proceeding, and on September 29, 2017, the adjudicator adjourned this matter to a participatory hearing. The interim decision should be read in conjunction with this decision.

The participatory hearing commenced on December 12, 2017 and was adjourned to today's date. The interim decision should be read in conjunction with this decision.

This hearing dealt with an Application for Dispute Resolution by the landlords for an order of possession, and for a monetary order for unpaid rent or utilities.

Although served with the Notice of Hearing reconvene hearing, in person on December 14, 2017. The tenants did not appear. I find that the tenants have been duly served in accordance with the Act.

The landlords gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

Issues to be Decided

Are the landlords entitled to an order of possession for unpaid rent?
Are the landlords entitled to a monetary order?

Background and Evidence

Based on the testimony of the landlords, I find that the tenants were served with a notice to end tenancy for non-payment of rent on August 7, 2017, in person. 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 landlords testified that although the tenancy agreement indicated the tenants are to pay \$1,100.00 per month they agreed to lower the rent to \$1,000.00 per month.

The landlords testified that the tenants have not paid rent since June 2017. The landlords stated in August 2017, they received the amount of \$900.00 from the tenants; however, no further rent has been paid. The landlord seeks to recover seven months of unpaid from June 2017 up to and including December 2017, in the amount of \$7,000.00, less \$900.00 paid, for a total amount owing of \$6,100.00.

The landlords seek to offset the security deposit of \$500.00 and recover the filing fee.

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 and did not apply to dispute the notice and is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

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.

I find that the landlords have established a total monetary claim of \$6,200.00 comprised of unpaid rent as stated above and the \$100.00 fee paid by the landlords for this application.

I order that the landlords retain the security deposit of \$500.00 in partial satisfaction of the claim and I grant the landlords an order pursuant to section 67 of the Act, for the balance due of **\$5,700.00**. 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 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 landlords are granted an order of possession, and may keep the security deposit and interest in partial satisfaction of the claim. I grant a monetary order for the balance due.

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: December 20, 2017

Residential Tenancy Branch