



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNRL, FFL

Introduction

This is an application brought by the Landlord requesting an Order of Possession based on a Notice to End Tenancy for nonpayment of rent, requesting a monetary order for outstanding rent, and requesting recovery of the filing fee.

Both of the respondents/tenants were well aware of today's hearing, because this hearing was scheduled as a result of the review decision on an application filed by the respondents/tenants, and the respondents/tenants were notified directly of the date and time of today's hearing.

I therefore proceeded with the hearing in the absence of the tenants.

All parties were affirmed.

Issue(s) to be Decided

The issues are whether or not the landlord has established the right to an Order of Possession, and whether or not the landlord has established the right to a monetary order, and if so in what amount.

Background and Evidence

The landlord testified that this tenancy began on May 1, 2017 with a monthly rent of \$2200.00, payable on the first of each month. A copy of the tenancy agreement has been provided in support of this claim.

The landlord testified that the tenants had failed to pay a portion of the November 2017 rent, and had failed to pay the full December 2017 rent, and therefore on December 4, 2017 the tenants were personally served with a 10 day Notice to End Tenancy.

The witness for the landlord testified that he was present when that Notice to End Tenancy was served, on December 4, 2017, and witnessed it being served to the tenants.

The landlord further testified that the tenant has failed to pay any further rent, and has failed to vacate the rental unit, and therefore as of today's date the following rent is outstanding.

November 2017 rent outstanding	\$1600.00
December 2017 rent outstanding	\$2200.00
January 2018 rent outstanding	\$2200.00
Total	\$6000.00

The landlord is therefore requesting an Order of Possession for as soon as possible, and a monetary order up until the date the tenants vacate. The landlord further testified that the tenants have informed him that they will be vacating on February 2, 2018.

The landlord is also requesting recovery of the \$100.00 filing fee.

Analysis

This file was originally dealt with as a Direct Request, non-participatory hearing, however the tenants filed for review of that decision, claiming that they had not received the December 4, 2017 Notice to End Tenancy, and as a result a review hearing was granted for today's date.

During today's hearing the landlord, and the landlords witness both gave sworn testimony that the tenants were served with the December 4, 2017 Notice to End Tenancy, and I accept that testimony as being truthful. It is my decision therefore that the tenants should have vacated the rental unit pursuant to that notice.

I therefore allow the landlords request for an Order of Possession for as soon as possible.

It is also my finding that the landlord has shown that there is a total of \$6000.00 in rent outstanding, to the end of January 2018, and therefore it is my decision that the tenants must pay the full \$6000.00 rent that is outstanding, as they failed to vacate the rental unit, and therefore they should reasonably have anticipated that, more rent would be due.

It is also my decision that the tenants must pay prorated rent for two days in February 2018, as I find it unlikely that the tenants will vacate before February 2, 2017.

I also allow the landlords request for recovery of the \$100.00 filing fee.

Therefore the total monetary claim that I will allow is as follows;

November 2017 rent outstanding	\$1600.00
December 2017 rent outstanding	\$2200.00
January 2018 rent outstanding	\$2200.00
Two days February 2018 rent prorated	\$157.14
Filing fee	\$100.00
Total	\$6257.14

Conclusion

Pursuant to sections 46 and 55 of the Residential Tenancy Act I have issued an Order of Possession that is enforceable two days after service on the tenants.

Pursuant to sections 67 and 72 of the Residential Tenancy Act I have issued a monetary order in the amount of \$6257.14.

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: January 31, 2018

Residential Tenancy Branch