



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL, MNR, MNSD, FFL

Introduction

On August 8, 2020, the Landlord submitted an Application for Dispute Resolution requesting an order of possession based on issuance of a Two Month Notice to End Tenancy for Landlord Use of Property ("the Two Month Notice"). The Landlord also applied for a monetary order for unpaid rent and to keep the security deposit in full or partial satisfaction of the claim.

The matter was set for a conference call hearing. The Landlord appeared at the hearing; however, the Tenants did not. The Landlord testified that the Notice of Dispute Resolution Proceeding was served to the Tenants using registered mail addressed to the Tenants at the dispute address on August 17, 2020. The Landlord provided a copy of the registered mail receipt and tracking number as proof of service. I find that the Tenants were served with notice of the hearing in accordance with sections 89 and 90 of the Act.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

- Is the Landlord entitled to an order of possession for the rental unit based on a Two Month Notice to End Tenancy for Landlord Use of Property?
- Is the Landlord entitled to a monetary order for unpaid rent?
- Is the Landlord entitled to keep the security deposit?

Background and Evidence

The Landlord testified that the tenancy began on November 1, 2019, as a six-month fixed term tenancy that continued thereafter on a month to month basis. Rent in the amount of \$2350.00 is to be paid by the first day of each month. The Tenants paid the Landlord a security deposit in the amount of \$1,160.00. The Landlord provided a copy of the tenancy agreement.

The Landlord sold the residential property. The Landlord issued the Tenants a Two Month Notice to End Tenancy for Landlord Use of Property dated July 13, 2020 ("the Two Month Notice"). The reason cited for ending the tenancy in the Notice is:

All the conditions for the sale of the rental unit have been satisfied and the purchaser has asked the Landlord in writing to give this notice because the purchaser or a close family member intends in good faith to occupy the rental unit.

The effective date shown on the Two Month Notice is September 30, 2020. The Landlord provided a copy of the Two Month Notice.

The Two Month Notice provides information for Tenants who receive the Notice. The Notice states that a Tenant has the right to dispute the Notice within 15 days after it is assumed to be received by filing an Application for Dispute Resolution at the Residential Tenancy Branch.

If a Tenant does not file an Application within 15 days, the Tenant is presumed to accept that the tenancy is ending and must move out of the rental unit by the date set out on page 1 of the Notice. If the Tenant does not file an Application, move or vacate, the Landlord can apply for an Order of Possession that is enforceable through the court.

The Landlord testified that the Tenants have not disputed the Two Month Notice.

The Landlord seeks an order of possession for the rental unit for the effective date on the Two Month Notice.

Unpaid Rent

The Landlord testified that the Tenants have failed to pay the rent owing under the tenancy agreement for the following months:

- March 2020 in the amount of \$2,350.00
- April 2020 in the amount of \$2,350.00
- May 2020 in the amount of \$2,350.00
- June 2020 in the amount of \$2,350.00
- July 2020 in the amount of \$2,350.00
- August 2020 in the amount of \$2,350.00

The Landlord has applied to keep the security deposit of \$1,160.00 in partial satisfaction of his claim for unpaid rent.

Analysis

Pursuant to section 49 (6) of the Act, if a Tenant does not file an Application within 15 days, the Tenant is presumed to accept that the tenancy is ending and must move out of the rental unit by the date set out on page 1 of the Notice.

Under section 55 (2)(b) of the Act, if the Tenant does not file an Application, move or vacate, the Landlord can apply for an Order of Possession that is enforceable through the court.

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

The Tenants are deemed under the Act to have received the Two Month Notice on July 16, 2020 and did not dispute the Notice within 15 days. Pursuant to section 49 (6) of the Act, I find that the Tenants are conclusively presumed to have accepted that the tenancy ends on the effective date of the notice. The tenancy is ending on September 30, 2020.

I find that the Two Month Notice complies with the requirements regarding form and content and I find that the Landlord is entitled to an order of possession effective at 1:00 pm on September 30, 2020. This order may be filed in the Supreme Court and enforced as an order of that Court.

With respect to unpaid rent, I accept the Landlords evidence that the Tenants have failed to pay the rent owing under the tenancy agreement for the months provided above. I find that the Landlord is entitled to a monetary order for unpaid rent in the amount of \$14,100.00.

I authorize the Landlord to keep the security deposit of \$1,160.00 in partial satisfaction of the award for unpaid rent.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenants to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

After setting off the security deposit of \$1,160.00 towards the award of \$14,200.00, I grant the Landlord a monetary order for the balance of \$13,040.00.

Conclusion

The Landlord's request for an order of possession based on the issuance of a Two Month Notice to End Tenancy for Landlord's Use of Property dated July 13, 2020 is granted.

The Tenants received the Two Month Notice and did not dispute the Notice.

I grant the Landlord an order of possession effective at 1:00 pm on September 30, 2020. The Tenants must be served with the order of possession.

The Landlord is authorised to keep the security deposit and is granted a monetary order in the amount of \$13,040.00 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: September 21, 2020

Residential Tenancy Branch