



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords filed under the Residential Tenancy Act, (the “Act”), for an order of possession, for a monetary order for unpaid rent, to retain the security deposit in partial satisfaction of the claim and an order to recover the cost of filing the application from the tenants.

The landlord’s agent attended the hearing. As the tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondents must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord’s agent testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail sent on August 18, 2020 and successfully delivered on August 19, 2020. Canada post tracking numbers were provided as evidence of service. The agent stated that the tenants were also given a copy in person.

I find the tenants were served on August 19, 2020, in accordance with the Act.

The landlord’s agent appeared gave testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

Issues to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary for unpaid rent?

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

Background and Evidence

The tenancy began on March 1, 2020. Rent in the amount of \$1,400.00 was payable on the first of each month. The tenants were further required to pay the amount of \$125.00 towards the utilities each month. A security deposit of \$700.00 was paid by the tenants.

The landlord's agent testified that the tenants were served with a 1 Month Notice to End Tenancy for Cause (the "Notice"), issued on July 13, 2020, which was served in person on July 13, 2020 and a copy was also sent by registered mail which was successfully delivered on July 15, 2020. Canada post tracking numbers were provided as evidence of service.

The Notice explains the tenants had ten 10 days to dispute the Notice. The Notice further explains if the Notice is not disputed within the ten days that the tenants are presumed to accept the Notice and must move out of the rental unit by the date specified in the Notice, which was August 31, 2020.

The landlord's agent testified that the tenants did not dispute the Notice and did not vacate the premise on the date specified in the Notice. The landlord seeks an order of possession.

The landlord's agent testified that the tenants have not paid the rent or utilities for the months of July, August, and September 2020. The landlord seeks unpaid rent in the amount of \$4,200.00 and unpaid utilities of \$375.00, for a total amount of \$4,575.00.

Analysis

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

I accept the evidence of the landlord's agent that the Notice was completed in accordance with Part 4 of the Act - How to End a Tenancy, pursuant to section 47 of the Act. A copy of the Notice was filed in evidence for my review and consideration.

I find the Notice was completed in the approved form and the contents meets the statutory requirements under section 52 the Act.

Further, I accept the evidence of the landlord's agent that the tenants were served with the Notice in compliance with the service provisions under section 88 of the Act.

I am satisfied based on the landlord's agents, evidence that the landlords have met the statutory requirements under the Act to end a tenancy.

The tenants did not apply to dispute the Notice and therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice. I find the tenancy legally ended on August 31, 2020, and the tenants are now overholding the premise.

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 am further satisfied that the tenants have failed to pay and utilities for the months of July, August, and September 2020. I find the tenants have breached section 26 of the Act. Therefore, I find the landlords are entitled to recover unpaid rent and utilities in the amount of **\$4,575.00**.

I find that the landlords have established a total monetary claim of **\$4,675.00** comprised of the above described amount and the \$100.00 fee paid for this application.

I order that the landlords retain the security deposit of **\$700.00** in partial satisfaction of the claim and I grant the landlord(s) an order under section 67 of the Act for the balance due of **\$3,975.00**. 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.

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 tenant.

Conclusion

The tenants failed to dispute the Notice. 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. The landlords are granted a monetary order and may keep a portion of the security deposit in full satisfaction of the claim.

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 29, 2020

Residential Tenancy Branch