



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding RE/MAX Mid-Island Realty and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords for an order of possession, for a monetary order for unpaid rent or utilities, and to recover the cost of filing fee from the tenants.

The landlords and 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 each respondent 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 served, by registered mail sent on December 6, 2020. Canada post tracking numbers were provided as evidence of service. The Canada post history shows the packages were successfully delivered to the tenants on December 7, 2020.

I find the tenants were served on December 7, 2020, in accordance with the Act.

The landlords and landlord's agent 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, and landlord's agent, I find that the tenants were served with a notice to end tenancy for non-payment of rent (the "Notice") on November 6, 2020, by registered mail. This was the date the Notice was successfully delivered to the tenants. The Canada post tracking number was provided as evidence and service was confirmed.

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 landlord's agent and the landlords stated that the tenants did not dispute the Notice, nor did they pay the outstanding rent of \$800.00 listed the Notice. The landlords stated the tenants have not paid any subsequent rent of \$1,200.00 per month for December 2020, January, and February 2021.

The landlords seek an order of possession and a monetary order for unpaid rent in the amount of \$4,400.00.

Analysis

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

I have reviewed the Notice. I find the Notice was completed in accordance with section 46 and 52 of the Act.

The tenants have not paid the outstanding rent and did not apply to dispute the notice and are 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 the tenancy legally ended on November 21, 2020, the date indicated in the Notice and the tenants are 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 find that the landlords have established a total monetary claim of **\$4,500.00** comprised of unpaid rent as shown above, and the \$100.00 fee paid by the landlords for this application. 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 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: February 18, 2021

Residential Tenancy Branch