

Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION

Dispute Codes: OPR MNR MNDC O FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order for unpaid rent, loss of revenue, late penalty fee, and an order to recover the filing fee. Both the landlord and the tenant participated in the conference call hearing.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the landlord entitled to the monetary amounts claimed?

Is the landlord entitled to an order of possession?

Background and Evidence

On October 1, 2008 the tenants failed to pay the \$1005 rent due on that date as well as arrears of \$675, and on October 5, 2008 the landlord served the tenants with a notice to end tenancy for unpaid rent. At the outset of the hearing the landlord advised that the tenants had, on this date, made full payment of all rent due and all arrears and monetary claims referenced in this application, including the filing fee. In light of this late information I asked the landlord if they still sought an order of possession and the response was that the subject of the tenancy being in the good and now reinstated was yet to be determined and therefore the landlord was still seeking an order of possession and a monetary order for recovery of the filing fee associated with this application from the tenant.

The tenant did not provide any testimony to support or refute the application.

Analysis

The tenant did not pay the rent indicated on the notice to end tenancy within the time permitted to reinstate the tenancy, and I find that the notice is valid.

The landlord has confirmed that all unpaid rent and all other monetary relief sought in the application now have been paid. On that basis I dismiss the portion of the landlord's application regarding a monetary order for unpaid rent. On the same basis I dismiss the portion of the landlord's application regarding a monetary order to recover the filing fee.

On reflection I find that the tenancy has been reinstated. Given the testimony by the landlord, that the survivorship of the tenancy is yet to be determined by the landlord; and, given the inherent serious ramifications such an order of possession could have on the tenant, I dismiss the landlord's application for an order of possession

Conclusion

The landlord did not satisfy any order sought in their application is appropriate in this matter. I dismiss the application.

Dated: November 14, 2008

Dispute Resolution Officer