



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

Some documentary evidence and written arguments has been submitted prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the applicant the opportunity to testify at the hearing.

The respondent was served with notice of the hearing by registered mail that was mailed on February 8, 2011, but did not join the conference call that was set up for the hearing.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is a request for an order possession based on Notice to End Tenancy for nonpayment of rent, a request for a monetary order for \$2800.00, a request that the respondent bear the \$50.00 cost of the filing fee, and a request for the landlord be allowed to keep the full security deposit towards this claim.

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a residential tenancy agreement which was signed by the parties on August 12, 2010 for a tenancy beginning September 1, 2010 for the monthly rent of \$1500.00 due on 1st of the month; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent which was issued on, February 2, 2011 with an effective vacancy date of every 12 2011 due to \$2200.00 in unpaid rent.

The landlord testified that the tenant(s) had failed to pay rent outstanding totaling \$2200.00 to the end of February 2011 and that the tenants were served a 10 Day Notice to End Tenancy for Unpaid Rent by hand on February 2, 2011.

The Notice states that the tenant(s) had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant(s) did not apply to dispute the Notice to End Tenancy within five days.

Analysis

I have reviewed all the evidence and testimony, and accept that the tenants have been served with notice to end tenancy as declared by the landlord. I accept the evidence before me that the tenants have failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act*. The tenants have subsequently paid \$900.00 however there is still \$1300.00 rent outstanding.

Based on the foregoing, I find that the tenants are conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the Notice.

Conclusion

I find that the landlord is entitled to an Order of Possession effective **two days after service on the tenant(s)**. This order must be served on the tenant(s) and may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord is entitled to monetary compensation pursuant section 67 in the amount of \$1350.00 comprised of the \$1300.00 February 2011 rent outstanding plus the \$50.00 filing fee. I therefore order that the landlord may retain the full security deposit of \$750.00 and I have issued a monetary order in the amount of \$600.00.

The claim for March 2011 rent is premature and therefore I have dismissed that portion of the claim with leave to reapply.

This order must be served on the tenant(s) and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

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 17, 2011.

Residential Tenancy Branch