



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, and a monetary order for unpaid rent.

Although served with the Application for Dispute Resolution and Notice of Hearing on April 9, 2013, the tenants did not appear. I find that the tenant have been duly served in accordance with the Act.

The landlord 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.

Issue(s) to be Decided

Is the landlord entitled to an order of possession for unpaid rent?
Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

Based on the undisputed testimony of landlord, I find that the tenants were served with a notice to end tenancy for non-payment of rent on April 1, 2013, by personal service, which was witnessed. The notice informed the tenants that the notice would be cancelled if the rent was paid within five days. The notice also explains the tenant had five days to dispute the notice.

The landlord testified at the time the notice was issued the tenants were in rent arrears for March 2013, in the amount of \$390.00, and did not pay rent for April 2013. The landlord stated on April 23, 2013, the tenants paid \$550.00 towards the balance owing of \$1,780.00 leaving an amount of \$1,230.00 in rent outstanding. The landlord stated the tenants have not paid any rent for May 2013 and seeks a total monetary order for unpaid rent in the amount of \$2,620.00.

The landlord testified that the parties have entered into a payment schedule to pay the outstanding rent, and based on that agreement he agreed to extend the effective vacancy date to May 31, 2013, to allow the tenants' time to find alternate

accommodations that are more suitable for their family needs. The landlord stated the tenants were fully aware that he was not reinstating the tenancy.

Analysis

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

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. That effective date was extended by the landlord to May 31, 2013.

I find that the landlord is entitled to an order of possession effective **May 31, 2013 at 1:00pm**. This order may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord has established a total monetary claim of **\$2,620.00** comprised of unpaid rent. I grant the landlord an order under section 67 of the Act.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court, should the tenants fail to make payments as agreed.

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, which was extended by the landlord.

The landlord is 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: May 02, 2013

Residential Tenancy Branch

