



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes mnr, opr, ff

Introduction

The landlords request an Order of Possession and a Monetary Order for unpaid rent.

I accept that the tenants were properly served with the Application for Dispute resolution hearing package by registered mail.

Issues to Be Decided

- Is the Notice to End Tenancy served upon the tenants effective to end this tenancy, and entitle the landlords to an Order of Possession?
- Is there rent money due and payable by the tenants?

Background and Evidence

This tenancy began on July 1, 2006. Rent is due on the 1st day of each month in the amount of \$2,250.00. The tenants fell into arrears, and on May 31, 2013, they were found to owe \$7,650.00 (in decision 8074770). Although granted an Order of Possession at that time, the landlords felt sorry for the tenants, and permitted them to remain in the premises. The tenants are now even further in arrears and as of January 1, 2015, they owed \$11,100.00 to the landlords. The landlords served the tenants with a 10-Day Notice to End Tenancy on January 11, 2015 by way of registered mail. The tenants did not pay the rental arrears or apply for dispute resolution within the required five days of receiving the Notice to End Tenancy. No further rent has been paid, and February's rent is now also owing. The total unpaid rent is now \$13,350.00.

Analysis

In the absence of the required payment of the arrears, or a dispute of the notice within the 5 day period set out in the Notice, the tenants are conclusively presumed to have accepted the end of the tenancy agreement on the effective date of the Notice, by virtue of section 46(5)(a) of the Residential Tenancy Act. As the effective date of the Notice has passed, the landlords have established an immediate right to possession.

The landlords are entitled to recover the unpaid rent to and including January, 2015 of \$11,100.00. I accept that the landlord will also suffer a loss of rent for the full month of February, and that the landlords' application for unpaid rent should be considered to include February's rent, given that the tenants knew such rent was due February 1, but did not pay such rent. The landlords are entitled to recover their \$100.00 filing fee from the tenants. The landlords are awarded \$13,450.00.

As the monetary order made in this hearing includes all rental arrears in this tenancy, the previous monetary order of \$7,650.00 is now cancelled and is unenforceable.

Conclusion

Pursuant to Section 55(2)(b) of the Residential Tenancy Act, I issue an Order of Possession effective 48 hours following service upon the tenants. Should the tenants fail to comply with this Order, the landlord may register the Order with the Supreme Court for enforcement.

The landlords may recover the sum \$13,450.00 from the tenants.

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 11, 2015

Residential Tenancy Branch

