

DECISION

Dispute Codes: CNR, O, OPR, MNR, MNSD, FF

This hearing dealt with a cross applications by the parties. The landlord applied for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The tenants applied to cancel the notice to end tenancy.

At the outset of the hearing, the landlords withdrew their application for an order of possession as the tenants moved out of the unit on January 14, 2009. Both parties agreed that the remaining issue in this dispute is the amount of the outstanding rent.

On September 1, 2008, the landlord issued a receipt to the tenants acknowledging receipt of a security deposit in the amount of \$600.00. The landlords explained that at the time, the tenants did not have sufficient funds to pay for the security deposit. Therefore, the landlords accepted the tenant TE's labour in performing certain renovation work in the landlords' unit which amounted to \$600.00. The tenancy began on August 1, 2008. Rent in the amount of \$1200.00 was payable in advance on the first day of each month. The landlords said that on September 1, 2008, they lowered the amount of the monthly rent to \$1170.00. The tenants failed to pay rent in the month of December and on December 1, the landlords served the tenants with a notice to end tenancy for non-payment of rent. The tenants also failed to pay rent in the month of January and on January 7, the landlords served the tenants with another notice to end tenancy for non-payment of rent.

The landlords are seeking recovery of outstanding rent of \$770.00 for December and \$1170.00 for January.

The tenants admitted that they did not pay the January rent. Rather, they disputed the amount of outstanding rent for December. They explained that on

December 1, they paid \$400.00 towards their December rent and later that month, they paid the landlords an additional \$300.00 in cash. The landlords said that they always issued receipt to the tenants for the amount of rent paid and on December 1, they issued a receipt to the tenants for the \$400.00 payment towards their December rent. The tenants did not dispute that the landlords always gave them receipts for the amount of rents paid. They also acknowledged receiving a receipt from the landlords for the \$400.00 rent payment on December 1. When asked if they could provide a receipt for the additional \$300.00 paid towards the December rent, the tenants said “no”. Based on the above, I find that the tenants have not proven that they had paid \$300.00 in addition to the \$400.00 rent payment for December.

The tenants further disputed the total amount of outstanding rent stating that it should be reduced by \$600.00 for the following reason. The landlords had agreed for tenant TE to do some painting in the tenants’ unit and applied the cost of his labour in the amount of \$600.00 towards the rent. But the landlord never deducted this amount for their rent. The landlords maintained that they did not have such an agreement with the tenants. The landlords explained that the tenants did ask them for permission to repaint their unit. At the time, the landlords told them that the tenants’ unit was in a liveable condition and they could not afford to do any renovation to it. However, they eventually agreed to the landlords reimbursing the tenants for the materials needed to repaint the unit but not the labour required to complete the task. Based on the above, I find that the tenants have not proven that they are entitled to a \$600.00 deduction in rent for their labour in rendering work agreed upon by the landlords. .

Based on the above, I find that the landlords have established a claim for \$1940.00 in unpaid rent. The landlords are also entitled to recovery of the \$50.00 filing fee. I order that the landlords retain the security deposit and interest of \$603.00 in partial satisfaction of the claim and I grant the landlords an order under section 67 for the balance due of \$1387.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated February 10, 2009.