



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

The hearing that was due to be held on June 24 was reconvened to today's date to allow the Applicant to resubmit evidence that was not received at the Residential Tenancy Branch. This evidence has now been received.

This matter dealt with an application by the landlord for an Order of Possession, a Monetary Order for unpaid rent and to recover the filing fee for this proceeding. The landlord also applied to keep all or part of the security deposit.

Service of the hearing documents was done in accordance with section 89 of the *Act*. They were sent to the tenants by registered mail on May 16, 2009. At the adorned hearing one of the tenants appeared but at the reconvened hearing neither tenant appeared despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. At the outset of the hearing the landlord confirmed that the tenants have moved out and as a result they withdraw their application for an Order of Possession and their application to retain the tenant's security deposit.

The landlords appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form. All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

- Was a valid 10-Day Notice to End Tenancy properly served on the tenant?
- Are there arrears of rent and if so, how much?

- Whether the landlord is entitled to a Monetary Order to recover the unpaid rent and filing fee?

Background and Evidence

This tenancy started on March 01, 2009 and ended on July 31, 2009. This was a month to month tenancy. Rent was \$1,150.00 which includes utilities and was due on the 1st of each month. The tenants paid a security deposit of \$500.00 on February 28, 2009.

The tenant paid \$300.00 towards their rent for April which left a balance outstanding of \$850.00. On April 09, 2009 the landlord served the tenant with a 10 Day Notice to End Tenancy for unpaid rent. This Notice was served in person to the tenants and was deemed to have been served on the same day. The tenants had five days to pay the outstanding rent, dispute the Notice or the tenancy would end on April 19, 2009. The tenants did not pay the balance owed within five days or dispute the Notice. The landlord applied for Dispute Resolution on May 15, 2009. Since that time the tenants have not paid rent for May, June or July, 2009 and the landlords have amended their application to include a Monetary Order for rent arrears for June and July. The landlords have submitted copies of rent receipts and rental statements in evidence.

The tenancy agreement has a clause that states if rent is late then the landlords can charge the tenants a fee of \$25.00 for each month it is late.

The tenants moved out of the rental property on July 31, 2009 they did not give the landlords a forwarding address.

Analysis

The tenants did not appear at the hearing, despite having been sent a Notice of the reconvened hearing; therefore, in the absence of any evidence from the tenant, I find that the landlord is entitled to recover the balance of rent owed for April of \$850.00 and rent arrears for May, June



Dispute Resolution Services

Page: 3

Residential Tenancy Branch
Ministry of Housing and Social Development

and July, 2009 of \$3,450.00. The landlord is also entitled to recover late fees for each of these months to the amount of \$100.00 pursuant to section 67 of the *Act*.

As the landlord has been successful in this matter, they are also entitled to recover the \$50.00 filing fee for this proceeding pursuant to s. 72(1) of the *Act*.

The landlord will receive a monetary order for the balance owing as follows:

Outstanding rent for April, May June and July, 2009	\$4,300.00
Filing fee	\$50.00
Total amount due to the landlord	\$4,450.00

Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$4,450.00**. The order must be served on the tenant and is enforceable through the Provincial Court 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: August 05, 2009.

Dispute Resolution Officer