



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## **Decision**

**Dispute Codes:** MNR, MNSD, FF

## **Introduction**

This hearing dealt with an application from the landlords for a monetary order for unpaid rent, retention of the security deposit, and recovery of the filing fee for this application. Both landlords participated in the hearing and gave affirmed testimony. Despite being served by way of registered mail with the application for dispute resolution and notice of hearing, neither tenant appeared.

## **Issues to be decided**

- Whether the landlords are entitled to any or all of the above.

## **Background and Evidence**

The landlords testified that pursuant to a written residential tenancy agreement, the term of the tenancy was from May 1, 2008 to April 30, 2009. Rent in the amount of \$1,700.00 was payable on the first day of the month, and a security deposit of \$850.00 was collected on or about May 1, 2008.

A move-out condition inspection and report were completed with representation by both parties on or about May 14, 2009. The landlords testified that by way of their signatures on the move-out condition inspection report, the tenants consented to the landlords' withholding of \$653.10 from the security deposit for costs associated with cleaning and repairs.

The tenants' rent cheque for April's rent was unable to be negotiated by the landlords as there were not sufficient funds (NSF). Despite numerous exchanges between the parties in regard to this matter, that rent remains unpaid.

Further to recovery of the filing fee and retention of the security deposit, the landlords seek compensation for unpaid rent, the NSF cheque, costs for registered mailing of documents, and time spent filing the application and preparing for the hearing.

### **Analysis**

Based on the documentary evidence and undisputed testimony of the landlords, I find that the landlords have established a claim of \$2,428.10. This is comprised of \$1,700.00 in unpaid rent for April 2009, \$25.00 for the fee from the tenants' NSF cheque, \$653.10 for costs related to cleaning and repairs required in the unit following the end of tenancy, and recovery of the \$50.00 filing fee. I order that the landlords retain the security deposit of \$850.00 and interest of \$8.53, and I grant the landlords a monetary order under section 67 of the Act for the balance owed of \$1,569.57 (\$2,428.10 - \$858.53).

Related to costs claimed by the landlords for the tenants' NSF rent cheque, section 7 of the Residential Tenancy Regulation addresses **Non-refundable fees charged by landlord**, and provides in part, as follows:

7(1) A landlord may charge any of the following non-refundable fees:

(d) subject to subsection (2), an administration fee of not more than \$25.00 for the return of a tenant's cheque by a financial institution or for late payment of rent.;

(2) A landlord must not charge the fee described in paragraph (1)(d) or (e) unless the tenancy agreement provides for that fee.

Section 72 of the Act addresses **Director's orders: fees and monetary orders**. With the exception of the filing fee for an application for dispute resolution, the Act does not

provide for the award of costs associated with litigation to either party to a dispute. Accordingly, the landlords' claim for costs which are related to registered mailing and time spent filing the application and preparing for the hearing, is dismissed.

### **Conclusion**

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlords in the amount of **\$1,569.57**. This order may be served on the tenants, filed in the Small Claims Court and enforced as an order of that Court.

DATE: August 31, 2009

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Dispute Resolution Officer