



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNSD, MNR, FF

Introduction

This hearing dealt with the landlords' application for a Monetary Order for unpaid rent, retention of the security deposit and recovery of the filing fee. Both landlords appeared at the hearing; however, the tenant did not appear. The landlord provided evidence that the tenant was served with the hearing package by registered mail sent to the forwarding address provided by the tenant. The landlords provided a copy of the registered mail receipt, including the tracking number. A search of the registered mail tracking number showed that the registered mail was successfully delivered to the tenant. Having been satisfied the tenant was notified of this hearing, I proceeded to hear from the landlords without the tenant present.

Issues(s) to be Decided

1. Have the landlords established an entitlement to monetary compensation for unpaid rent or other amounts?
2. Are the landlords entitled to retain the security deposit?
3. Award of the filing fee.

Background and Evidence

Based upon the undisputed evidence before me, I make the following findings. The tenancy commenced September 2008 and the tenant was required to pay rent of \$2,400.00 on the 1st day of every month. The tenant paid a security deposit of \$1,200.00 on August 25, 2008. On June 30, 2009 the tenant vacated the rental unit.

The landlords testified that the tenant failed to pay rent for the months of January through June 2009 except for \$4,300.00 in partial payments. In making this application, the landlords were seeking compensation of \$11,400.00. The landlords reduced their claim to \$10,200.00 which is comprised of \$10,100.00 in unpaid rent, \$600.00 for cleaning costs, \$600.00 for garbage removal, the filing fee of \$100.00, less the \$1,200.00 security deposit.

The landlords testified that the landlords moved the tenants abandoned possessions into the garage and waited several months to hear from the tenant. After no contact from the tenant, the landlords had the possessions disposed of. The landlords also submitted that the landlord reduced the incoming tenant's rent by \$600.00 as compensation for the unclean condition of the unit.

The landlord provided copies of emails between the parties that point to the tenant's acknowledgement of the outstanding rent of more than \$10,000. Upon enquiry, the landlord testified that they did issue numerous 10 Day Notices to End Tenancy for Unpaid Rent but explained that they not pursue an Order of Possession as the tenant made excuses and promises to pay the outstanding rent. In light of the amount of compensation being sought by the landlords, the landlord was requested to provide me with copies of the tenancy agreement, the 10 Day Notices and copies of cheques written by the tenant after the teleconference call ended. The landlord provided a copy of the tenancy agreement, copies of cheques or bank drafts provided to the landlord by the tenant and copies of three 10 Day Notices to End Tenancy for Unpaid Rent.

Analysis

Where a party makes a claim for monetary compensation against another party, the party making the claim has the burden to prove the claim. The party must be able to show that:

1. the other party violated the Act, regulations or tenancy agreement;
2. the applicant suffered a loss because of the violation;
3. the quantum of the loss; and,
4. the applicant did whatever was reasonable to minimize their loss.

Upon review of all of the evidence before me, I find the landlords have satisfied me that the landlords are entitled to unpaid rent of \$10,100.00 from the tenant. I authorize the landlords to retain the tenant's security deposit and accrued interest in partial satisfaction of the rent owed to the landlords.

In the absence of receipts or witness statements, the landlords did not provide sufficient evidence of their losses with respect to cleaning the rental unit or garbage removal and I dismiss that portion of the landlords' claim without leave to reapply.

I award the filing fee to the landlords and provide the landlords with a Monetary Order calculated as follows:

Unpaid rent to June 2009	\$ 10,100.00
Less: security deposit and interest	(1,206.34)
Filing fee	<u>100.00</u>
Monetary Order	<u>\$ 8,993.66</u>

The landlords must serve the Monetary Order upon the tenant and may file it in Provincial Court (Small Claims) to enforce as an Order of that court.

Conclusion

The landlords are entitled to recover unpaid rent from the tenant and have been authorized to retain the tenant's security deposit and interest in partial satisfaction of this claim. The landlords other monetary claims for cleaning and garbage removal were

dismissed for insufficient evidence. The landlord has been provided a Monetary Order in the amount of \$8,993.66 to serve upon the tenant.

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: January 08, 2010.

Dispute Resolution Officer