

DECISION

Dispute Codes

For the tenants – MNSD

For the landlords – MNR, MNSD, MNDC, FF

Introduction

This decision was set to deal with two applications for dispute resolution, one brought by the tenants and one brought by the landlords. Both files were due to be heard together. The tenants have requested the return of their security deposit. The landlords have requested a Monetary Order for unpaid rent and for money owed or compensation for damage or loss under the Residential Tenancy Act (Act), regulation or tenancy agreement. The landlord also seeks to keep the security deposit and recover the filing fee.

The hearing started at 01:30 p.m. as scheduled, the tenants did not dial into the conference call and the call remained open until 01.56 .p.m., the landlords dialled into the conference call. As there has been no hearing into the merits of the tenants' application, it is dismissed without leave to reapply.

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

- Are the landlords entitled to a Monetary Order for unpaid rent?
- Are the landlords entitled to a Monetary Order for money owed or compensation for damage or loss under the Act?
- Are the landlords entitled to keep all or part of the security deposit?

Background and Evidence

This tenancy started on December 20, 2008. This was a fixed term tenancy which was due to expire on December 31, 2009. The tenants paid a monthly rent of \$1,250.00 which was due on the first of each month. The tenants paid a security deposit of \$625.00 on December 19, 2008 and a pet damage deposit of \$300 on January 15, 2009.

The landlords testify that the tenants owed a balance of rent for December, 2009 of \$75.00. The tenants were due to vacate the rental property on December 31, 2009 but over held at the rental unit until January 03, 2010. The landlord seeks rent for January of \$120.96 (\$42.32 per day for three days).

The landlord has provided a copy of the condition inspection reports dated January 05, 2010. The move out section of the report has been signed by one of the tenants and this tenant has agreed that the landlord may keep the amount of \$75.00 for the balance of rent owed for December, 2009 from the security deposit, Januarys rent owed and a sum of \$20.00 per day in rent for the trailer the tenants left parked partially on the rental property and partially on the adjacent property.

The landlords testify that the owners of the adjunct property have asked them to remove the trailer from their land. The landlord testifies that it is now likely that the tenants have abandoned the trailer as they have not returned to collect it. The landlord has provided two quotes from local companies to remove the trailer one quote is for \$425.00 and one is for \$400.00. The landlords seek the amount of \$400.00 to have the trailer removed. The landlord has testified that they believe the trailer to have a monetary value of under \$500.00.

The landlords seek to keep the tenants security deposit of \$625.00 and accrued interest of \$0.34 in partial satisfaction of their claim. The landlords also seek to recover the filing fee from the tenants.

Analysis

The tenants did not appear at the hearing, despite having been given a Notice of the hearing and despite having filed their own application; therefore, in the absence of any evidence from the tenants, I refer both Parties to Section 26 of the Act which states: *A tenant must pay rent on*

the day it is due. Section 57(3) of the Act states: *A landlord may claim compensation from an overholding tenant for any period that the overholding tenant occupies the rental unit after the tenancy is ended.* Therefore, I find the landlords have established their claim for unpaid rent for December, 2009 of \$75.00. I also find the landlords have established their claim for unpaid rent for January, 2010 of \$120.96 as the tenants overheld at the property for the first three days of January, 2010.

I also refer both parties to section 24 of the Residential Tenancy Regulations which states: *A landlord may consider that a tenant has abandoned personal property if*

- a) The tenant leave the personal property on residential property that he or she has vacated after the tenancy agreement has ended, or*
- b) Subject to subsection (2), the tenant leaves the personal property on residential property*
 - (i) that, for a continuous period of one month, the tenant has not ordinarily occupied and for which he or she has not paid rent or*
 - (ii) from which a tenant has removed substantially all or his or hers personal property.*

Consequently, I find the tenants have abandoned the trailer at the rental property and pursuant to section 24 of the regulations the landlords are entitled to remove the trailer from their property and the adjacent property in compliance with part 5 of the Regulations and recover the costs associated in this removal. However, I caution the landlords to be aware of the 15 day review period for my decision and suggest that they do not have the trailer removed for 15 days from the date they receive my decision.

I Order the landlord to keep the security deposit and accrued interest of \$625.34 pursuant to section 38(4)(b) of the Act. I further find the landlords are entitled to recover the filing fee from the tenants pursuant to section 72(1) of the Act. A Monetary Order has been issued for the following amount:

Unpaid rent for December, 2009	\$75.00
Costs to remove the trailer	\$400.00
Filing fee	\$50.00
Subtotal	\$645.96
Less security deposit and accrued interest	(-\$625.34)
Total amount due to the landlord	\$20.62

Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. I ORDER the landlords to keep the tenants security deposit and accrued interest of **\$625.34**. In addition to this a copy of the landlord's decision will be accompanied by a Monetary Order for **\$20.62**. The order must be served on the respondent and is enforceable through the Provincial Court as an order of that Court.

The tenant's application is dismissed without leave to reapply.

I further ORDER that the tenants pay the filing fee of \$50.00 that was previously waived to the director of the Residential Tenancy Office.

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: April 13, 2010.

Dispute Resolution Officer