

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution for an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord and one of the tenants.

The matter was originally considered through the Direct Request process at which time it was determined that the matter involved more than can be adjudicated through that process. Specifically, a previous Dispute Resolution decision provided an order regarding the payment of rent and arrears for water utilities. The matter was put over to this participatory hearing.

Issues(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession for unpaid rent and utilities; to a monetary order for unpaid rent and utilities; for all or part of the security deposit and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to sections 38, 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord submitted into evidence the following documents:

- A copy of a tenancy agreement and addendum signed by the parties on October 19, 2006 for month to month tenancy for a monthly rent of \$1,200.00 plus utilities due on the 1st of the month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent issued on March 23, 2010 with an effective date of April 2, 2010 for unpaid rent in the amount of \$1,850.00 and utilities in the amount of \$2,283.21;
- Written confirmation that the 10 Day Notice was served personally to the female tenant on March 23, 2010 at 6:42 p.m. The landlord has confirmed in writing also that this service was witnessed by a third party;
- A copy of a "Reminder" from the landlord to the tenant's dated February 10, 2010 of the outcome of the previous hearing that ordered the tenant's pay \$1,788.27 for rent and utility arrears for the months of January to April 2010 and requested payment of \$3,126.54 for January and February 2010; and
- A copy of the Dispute Resolution decision dated January 15, 2010 referred to in the landlord's "Reminder" that further noted that effective once the utility arrears were paid off the rent and utility monthly payment would reduce to \$1,288.27.

The parties agree the tenants paid a security deposit of \$600.00 and a pet damage deposit of \$300.00 prior to the start of the tenancy. The parties also agreed that since the Dispute Resolution decision of January 15, 2010 the tenants have paid to the landlord an amount of \$4,600.00 towards all rent and utilities.

Analysis

As per the Dispute Resolution decision of January 15, 2010 the tenants would have had to have paid rent and utilities of \$5,364.81 for the months of January to April 2010 and of \$2,576.54 for the months of May and June 2010 for a total in the amount \$7,941.35.

As per the testimony of the parties at the hearing the tenants have paid a total amount of \$4,600.00 leaving arrears of \$3,341.35.

Conclusion

I find that the landlord is entitled to an Order of Possession effective **two days after service on the tenants**. This order must be served on the tenants and may be filed in the Supreme Court and enforced as an order of that Court.

I find that the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$3,391.35** comprised of \$3,341.35 rent and utilities owed and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and pet damage deposit and interest held in the amount of \$928.40 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$2,462.95**. This order must be served on the tenants and may be filed in the Provincial Court (Small Claims) and enforced 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: June 01, 2010.

Dispute Resolution Officer