

## **DECISION**

### **Dispute Codes**

OPR, MNR, MND, MNDC, MNSD, FF

### **Introduction**

This hearing dealt with an Application for Dispute Resolution by the landlord to obtain, a Monetary Order for unpaid rent, for damages to the rental unit, for money owed or compensation for loss or damage under the Residential Tenancy Act (Act), Regulation or tenancy agreement, an Order to keep all or part of the security deposit and to recover the cost of the filing fee. At the outset of the hearing the landlord states the tenants have vacated the rental unit and he withdraws his application for an Order of Possession.

Service of the hearing documents, by the landlord to the tenants, was done in accordance with section 89 of the *Act*, sent via registered mail on March 03, 2010 an amended copy of the application was sent by registered mail on June 10, 2010. Mail receipt numbers were provided in the landlords' documentary evidence. The tenants were deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord and his agent appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form. There was no appearance for the tenants, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

### **Issues(s) to be Decided**

- Is the landlord entitled to a Monetary Order for unpaid rent?
- Is the landlord entitled to a Monetary Order for damage to the rental unit?
- Is the landlord entitled to a Monetary Order for money owed or compensation for loss or damage?
- Is the landlord entitled to keep the security deposit?

### **Background and Evidence**

This tenancy started on October 15, 2009. This was a fixed term tenancy for 6 months. The tenants gave notice to end the tenancy and moved from the rental unit on February 14, 2010 and returned the keys to the landlord on February 19, 2010. Rent for this unit was \$1,150.00 each month and was due on the first of each month. The tenants paid a security deposit of \$525.00 on October 15, 2009 and gave the landlord their forwarding address in writing and a request for the return of their deposit on February 16, 2010.

The landlords' agent testifies that the tenants did not pay all the rent for February, 2010 and owe a balance of \$575.00. The landlord issued a 10 Day Notice to End Tenancy for unpaid rent on February 04, 2010. This was posted to the tenant's door and was deemed to have been served three days after posting. The tenants had five days to either pay the outstanding rent, apply for Dispute Resolution or the tenancy would end on February 14, 2010. The tenants did not pay the outstanding rent or dispute the Notice within five days.

The landlord seeks to amend his application to include a Monetary Order for unpaid rent for March and April, 2010 as he was unable to re-rent the unit until May 01, 2010 and the tenants had a fixed term tenancy for six months until April 15, 2010. The landlord has applied for money owed or compensation but did not adjust his monetary claim for the additional two months' rent.

The landlord states the tenants have not paid the outstanding utilities. The landlords' agent states that when the landlord first filed his application he had to estimate the utilities for his monetary claim. As the bills have now come in the landlord seeks to amend his application for the tenant's actual share of the bills. The landlords' agent states the tenants owe Gas from January 06 to February 04, 2010 of \$218.43 and from February 04 to February 14, 2010 of \$101.64. The tenants also owe for Hydro from January 07 to February 14, 2010 of \$85.72. The total amount of outstanding utilities is \$405.79.

The landlords' agent testifies that the tenants removed items from the rental unit; they removed all the light bulbs, the sink plugs, towel holder and a mirror. These have been replaced by the landlord at a cost of \$89.59. The landlord claims the tenants also removed other items which have not yet been replaced by the landlord. The landlord has provided photographic evidence to support his claim.

The landlord has applied to retain the tenants' security deposit in partial payment towards the rent arrears and recover the filing fee paid for this application.

### Analysis

The tenants did not appear at the hearing, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the tenants, I find that the landlord is entitled to recover rent arrears for February 2010 of **\$575.00** pursuant to section 67 of the *Act*.

I find the landlord has established his claim for unpaid utilities to the sum of **\$405.79**. The landlord is entitled to a Monetary Order to recover this amount from the tenants pursuant to section 67 of the *Act*.

I find the tenants have not appeared at the hearing or disputed the landlords' evidence concerning the missing items in the unit. Consequently from the landlords' evidence and verbal testimony heard today I find in favor of the landlords monetary claim for damages to the rental unit and find he is entitled to a monetary award for damages to the sum of **\$89.59** pursuant to section 67 of the *Act*.

It is my decision not to allow the landlord to amend his application to recover unpaid rent for March and April, 2010 as the tenants would have had no notification of this additional amount. However, I grant the landlord leave to reapply for this section of his claim and for any additional damages incurred by the tenants once the landlord has been able to make the repairs or replace missing items.

I order the landlord pursuant to s. 38(4)(b) of the *Act* to keep the tenant's security deposit of \$525.00 in partial payment of the rent arrears.

As the landlord has been largely successful in this matter, he is 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 February, 2010	\$575.00
Damages and replacement costs	\$89.59

Filing fee	\$50.00
Subtotal	\$1,120.38
Less security deposit and accrued interest	(-\$525.00)
<b>Total amount due to the landlord</b>	<b>\$595.38</b>

### Conclusion

I HEREBY FIND in partial favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$595.38**. The order must be served on the respondents 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: June 29, 2010.

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Dispute Resolution Officer