



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNR, MND, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order. Despite having been served with the application for dispute resolution and notice of hearing by registered mail on October 19, the tenants did not participate in the conference call hearing.

Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The landlord's undisputed testimony is as follows. The tenancy began on February 1, 2009 and ended in January 2010. The tenants were obligated to pay \$1,550.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$775.00 security deposit. I address the landlord's claims and my findings around each as follows.

- [1] **Unpaid rent.** The landlord testified that the tenants failed to pay any rent whatsoever in November 2009 and paid just \$700.00 of their rent in January 2010. I accept the landlord's undisputed testimony and find that the tenants failed to pay \$1,550.00 in November 2009 and a further \$850.00 in January 2010. I award the landlord \$2,400.00 in unpaid rent.
- [2] **Late payment fees.** The landlord seeks to recover \$690.00 in late payment fees pursuant to a term of the tenancy agreement which requires the tenants to pay \$2.00 for each day in which rent payments are late. This term of the tenancy agreement conflicts with Residential Tenancy Regulation 7(d) which states that late payment fees may not exceed \$25.00. Pursuant to section 5 of the Act, I find that the term is unenforceable and I dismiss the claim.

- [3] **NSF fees.** The landlord seeks to recover \$25.00 for each of two cheques which were returned for insufficient funds. The landlord testified that cheques for the months of November 2009 and January 2010 were returned by the bank. The tenancy agreement provides that the tenants are obligated to pay a \$25.00 NSF fee and I find that the landlord is entitled to this fee. I award the landlord \$50.00 for two NSF cheques.
- [4] **Skip Tracing Services.** The landlord seeks to recover \$200.00 paid to a skip tracing service to locate the tenants. I have authority under the Act to make awards where a party has failed to comply with the Act, Regulations or tenancy agreement. There is no provision in the legislation or in the tenancy agreement whereby the tenants are required to provide their forwarding address and accordingly I find that I do not have the authority to grant such an award. The claim is dismissed.
- [5] **Window repair.** The landlord seeks to recover \$218.58 as the cost of replacing a window in the rental unit. The landlord testified that the tenants installed an air conditioner by affixing it directly to the window frame and that a screw caused the window to crack. I accept the landlord's undisputed testimony and find that the tenants caused damage to the window and I find that the landlord is entitled to recover the cost of repair. I award the landlord \$218.58.
- [6] **Filing fee.** The landlord seeks to recover the \$50.00 paid to bring this application. I find that the landlord is entitled to recover the fee and I award the landlord \$50.00.

Conclusion

In summary, the landlord has been successful in the following claims:

Unpaid rent	\$2,400.00
NSF fees	\$ 50.00
Window repair	\$ 218.58
Filing fee	\$ 50.00
Total:	\$2,718.58

The landlord has established a claim for \$2,718.58. I order that the landlord retain the \$775.00 security deposit in partial satisfaction of the claim and I grant the landlord an

order under section 67 for the balance due of \$1,943.58. This order may be filed in the Small Claims Court 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: February 14, 2011

Residential Tenancy Branch