



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords to obtain a Monetary Order for unpaid rent and a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, Regulation or tenancy agreement. The landlords also seek 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 landlords' agent withdrew their application for an Order of Possession as the tenant has since moved from the rental unit.

Service of the hearing documents, by the landlords to the tenant, was done in accordance with section 89 of the *Act*; they were sent to the tenant by registered mail on February 16, 2011. Mail receipt numbers were provided in the landlord's documentary evidence. The tenant was deemed to be served the hearing documents on March 18, 2009, the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlords' agent appeared, gave affirmed testimony, was provided the opportunity to present his evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*.

Issues(s) to be Decided

- Are the landlords entitled to a monetary Order to unpaid rent and utilities?
- Are the landlords entitled to a Monetary Order for money owed or compensation for damage or loss?
- Are the landlords entitled to keep the security deposit?

Background and Evidence

This tenancy started on September 01, 2010. Rent for this unit is \$800.00 per month and is due on the first of each month. This is a fixed term tenancy which is due to expire on August 31, 2011. The tenant paid a security deposit of \$400.00 on August 27, 2010. The tenant moved from the rental unit on or about February 24, 2011 and has not provided a forwarding address.

The landlord testifies that the tenant did not paid rent for February, 2011. The landlord issued a 10 Day Notice to End the Tenancy for unpaid rent on February 07, 2011. This was handed to the tenant in person on that date. This Notice states the tenant owes rent for February, 2011 of \$800.00 and owes utilities of \$658.11. The tenant had five days to either pay the outstanding rent and utilities, apply for Dispute Resolution or the tenancy would end on February 17, 2011. The tenant did not pay the outstanding rent or dispute the Notice within five days. The landlord has amended the amount of utilities owed as he made an error in his calculations. The outstanding utilities are now \$577.13.

The landlord has applied to retain the tenants' security deposit in partial payment towards the rent arrears and seeks to recover his filing fee.

The landlord has provided a copy of the tenancy agreement, the utilities bills, and a letter sent to the tenant demanding payment of the utilities and rent.

Analysis

The tenant did not appear at the hearing to dispute the landlords claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the tenant, I have carefully considered the landlords documentary evidence and affirmed testimony before me. S. 26 of the *Act* states a tenant must pay rent when it is due under the tenancy agreement (my Interpretation). Therefore, I find the tenant has failed to pay rent for February, 2011 and consequently the landlords are entitled to recover rent arrears of **\$800.00**. I further find the landlords are entitled to recover unpaid utilities of **\$577.13** pursuant to s.67 of the *Act*.

I order the landlords pursuant to s. 38(4)(b) of the *Act* to keep the tenant's security deposit of \$400.00 in partial payment of the rent arrears.

As the landlords have been successful in this matter, they are also entitled to recover the **\$50.00** filing fee for this proceeding pursuant to s. 72(1) of the *Act*.

The landlords will receive a monetary order for the balance owing as follows:

Outstanding rent for February	\$800.00
Outstanding utilities	\$577.13
Subtotal	\$1,377.13
Less Security Deposit	(-\$400.00)
Plus filing fee	\$50.00
Total amount due to the landlords	\$1, 027.13

Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$1,027.13**. The order must be served on the

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: March 07, 2011.

Residential Tenancy Branch