



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to obtain a Monetary Order for unpaid rent, and to recover the filing fee paid for this application. At the outset of the hearing the landlords' agent withdrew the landlords' application for an Order of Possession as the tenants have vacated the rental unit.

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 February 26, 2011. Mail receipt numbers were provided by the landlords' agent. The tenants were deemed to be served the hearing documents on March 03, 2011, 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*. All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

- Is the landlord entitled to a Monetary Order to recover unpaid rent?

Background and Evidence

This month to month tenancy started on October 01, 2010. Rent for this unit was \$750.00 per month due on the 1st of each month. The tenants paid a security deposit of \$300.00. The tenants left the rental unit on or about March 05, 2011.

The landlords' agent testifies that the tenants did not pay rent for February, 2011 to the sum of \$750.00. The landlords' agent states the tenants were served with Notice to End Tenancy on February 07, 2011 in person. This Notice states the tenants have five days to pay the outstanding rent or dispute the notice by applying for dispute resolution or the tenancy will end on February 17, 2011. The landlord has applied for a Monetary Order to recover \$750.00 from the tenants plus the \$50.00 filing fee. The landlords' agent testifies that the tenants overhauled the rental unit until around March 05, 2011; however, he has not amended his application to recover unpaid rent for this time.

Analysis

The tenants 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 tenants, I have considered the landlords' documentary evidence and affirmed testimony of the landlords' agent. S. 26 of the *Act* states a tenant must pay rent on the day it is due. The landlords' agent has testified that rent is due on the 1st day of each month and the tenant failed to pay rent for February, 2011. Therefore, I find the landlord is entitled to recover rent arrears **\$750.00** pursuant to s. 67 of the *Act*. The landlord is at liberty to file a new application to recover any other rent arrears due but not claimed in this application.

As the landlord has been successful with his claim I find he is entitled to recover the **\$50.00** filing fee from the tenants pursuant to section 72(1) of the *Act*. The landlord will receive a monetary order for **\$800.00**.

Conclusion

I HEREBY FIND in favor of the landlords' monetary claim. A copy of the landlords' decision will be accompanied by a Monetary Order for **\$800.00 comprised of \$750.00 unpaid rent and \$50.00 filing fee**. The order must be served on the tenants 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: March 11, 2011.

Residential Tenancy Branch