



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNR, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlords for a monetary order for unpaid rent and money owed or compensation for damage or loss under the Residential Tenancy Act (the “Act”) and to recover the filing fee.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail on November 22, 2010, the Tenants did not appear.

The Landlords appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me.

Issue(s) to be Decided

Have the Tenants breached the Act or tenancy agreement, entitling the Landlord to an Order for monetary relief?

Background and Evidence

The Landlords provided evidence and gave affirmed testimony that the Landlords were granted an Order of Possession against the Tenants on or about November 8, 2010 by the Residential Tenancy Branch. It is not clear when the Landlords served the Tenants with the Order of Possession, but the Landlords testified that the Tenants gave notice of vacancy on November 2, 2010, and moved out on November 15, 2010, having failed to pay rent for November 2010.

The Landlords testified that immediately upon the Tenants vacating the rental unit, they placed advertisements on their usual internet sources and were not able to re-rent the rental unit until January 1, 2011.

The Landlords are claiming unpaid rent for November 2010, and loss of income for December 2010, in the amount of \$1,030.00 each month, due to the Tenants' late notice of their intent to move.

The Landlords also provided evidence that the Tenants have signed over the security deposit of \$515.00 paid on September 30, 2010, in writing.

Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, based on a balance of probabilities.

First, proof that the damage or loss exists, secondly, that the damage or loss occurred due to the actions or neglect of the Respondent in violation of the Act or agreement, thirdly, to establish the actual amount required to compensate for the claimed loss or to repair the damage, and lastly, proof that the claimant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

In the absence of testimony or evidence from the Tenants, I accept the evidence and testimony of the Landlords and I find that the Landlords have established a total monetary claim of **\$2,110.00** comprised of **\$1,030.00** in unpaid rent for November 2010, **\$1,030.00** in loss of income for December 2010 and the **\$50.00** fee paid by the Landlords for this application.

The Landlords requested that the monetary order not be reduced by the amount of the security deposit, but I specifically reject that request as the Landlords did not claim for nor prove damages to the rental unit and I order that the monetary order will be reduced by the amount of the security deposit which is being held by the Landlords.

Therefore I order that the Landlords retain the deposit of **\$515.00** in partial satisfaction of the claim and I grant the Landlords an order under section 67 for the balance due of **\$1,595.00**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The Landlords may keep the security deposit in partial satisfaction of the claim and are granted a monetary order for the balance due of \$1,595.00.

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: April 04, 2011.

Residential Tenancy Branch