



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover their filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 1:41 p.m. in order to enable them to connect with this hearing scheduled for 1:30 p.m. The male landlord (the landlord) attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that his daughter, CC, witnessed him hand a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) to the male tenant on December 7, 2011. He entered into written evidence a copy of the 10 Day Notice. The landlord testified that the tenants were handed a copy of the landlords' dispute resolution hearing package by his daughter, CY C, witnessed by her husband DDC on December 19, 2011. I am satisfied that the landlords served these documents to the tenants in accordance with the *Act*.

At the commencement of the hearing, the landlord testified that the tenants vacated the rental unit by late afternoon on January 4, 2012. As such, I accepted the landlord's withdrawal of the landlords' application for an Order of Possession.

Issues(s) to be Decided

Are the landlords entitled to a monetary award for unpaid rent? Are the landlords entitled to recover the filing fee for this application from the tenants?

Background and Evidence

This periodic tenancy commenced on March 1, 2007. Monthly rent was set at \$1,200.00, payable in advance on the first of each month. The tenants were responsible for hydro and heat. The landlords continue to hold the tenants' \$600.00 security deposit paid on February 6, 2007.

The landlords applied for a monetary award of \$2,400.00 as they maintained that the tenants did not pay their December 2011 or January 2012 rent. The landlord testified that the tenants did not make any further payments to the landlord after the landlords issued the 10 Day Notice.

The landlord noted that there was damage arising out of this tenancy and that the tenants did not properly clean the premises before they left. The landlord also said that the tenants did not pay their utility bills and that he may need to pursue additional claims against the tenants arising out of this tenancy. As these issues were not part of the landlords' original application, I cannot consider them in this application. I can only consider the landlords' claim for unpaid rent and the return of the filing fee for this application.

Analysis

Based on the undisputed evidence provided by the landlords, I am satisfied that the landlords have proven their claim of \$2,400.00 for unpaid rent for December 2011 and January 2012. I issue a monetary award in this amount in the landlords' favour.

Although the landlords' application does not seek to retain the tenants' security deposit, using the offsetting provisions of section 72 of the *Act*, I allow the landlords to retain the security deposit plus applicable interest in partial satisfaction of the monetary award. As the landlords were successful in their application, I find that the landlords are entitled to recover their \$50.00 filing fee paid for this application.

Conclusion

I issue a monetary award in the landlords' favour in the following terms which allows the landlords to recover unpaid rent and their filing fee for this application and to retain the tenants' security deposit:

Item	Amount
Unpaid December 2011 Rent	\$1,200.00
Unpaid January 2012 Rent	1,200.00
Less Security Deposit plus Interest (\$600.00 + \$9.65 = \$609.65)	-609.65
Recovery of Filing Fee for this application	50.00
Total Monetary Order	\$1,840.35

The landlords are provided with these Orders in the above terms and the tenant(s) must be served with a copy of these Orders as soon as possible. Should the tenant(s) fail to

comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court.

The landlords' application for an Order of Possession is withdrawn as this tenancy has ended.

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: January 09, 2012

Residential Tenancy Branch