



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF, MNDC, RP, RR, O

Introduction

This hearing dealt with applications from the landlords and the tenants pursuant to the *Residential Tenancy Act* (the *Act*). The landlords applied for the following outcomes from Tenant BB, the only respondent identified in the landlords' application:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover their filing fee for this application from the tenant pursuant to section 72.

The tenants applied for the following outcomes from Landlord FD, the only respondent identified in the tenants' application:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order to the landlord to make repairs to the rental unit pursuant to section 33;
- an order to be allowed to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- authorization to recover his filing fee for this application from the landlord pursuant to section 72; and
- other unspecified outcomes.

The tenants did not attend this hearing, although I waited until 11:19 a.m. in order to enable them to connect with this hearing scheduled for 11:00 a.m. The landlords attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions.

Rule 10.1 of the Rules of Procedure provides as follows:

10.1 Commencement of the dispute resolution proceeding The dispute resolution proceeding must commence at the scheduled time unless otherwise

decided by the Dispute Resolution Officer. The Dispute Resolution Officer may conduct the dispute resolution proceeding in the absence of a party and may make a decision or dismiss the application, with or without leave to re-apply.

In the absence of the tenants' participation in this hearing, I order the tenants' application dismissed without liberty to reapply.

The male landlord (the landlord) testified that the tenants vacated the rental unit by January 10, 2012, without leaving their keys. Since he now has possession of the rental unit and the tenancy has ended, the landlord withdrew the application for an Order of Possession.

The landlord testified that he handed the male tenant (the tenant) the 10 Day Notice on December 16, 2011. The female landlord testified that the landlords sent the tenant a copy of their dispute resolution hearing package by registered mail on December 28, 2011. She provided the Canada Post Tracking Number for this mailing and testified that Canada Post records show that it was received by the tenant on January 5, 2012. I am satisfied that the above documents were served by the landlords to the tenant in accordance with the *Act*.

Issues(s) to be Decided

Are the landlords entitled to a monetary award for unpaid rent? Are the landlords entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested? Are the landlords entitled to recover their filing fee for this application from the tenant?

Background and Evidence

This one-year fixed term tenancy commenced on March 1, 2011. Monthly rent was set at \$1,700.00, payable in advance on the first of each month. The landlords continue to hold the \$850.00 security deposit paid on February 27, 2011.

The landlord applied for a monetary award of \$1,600.00 for the unpaid rent owing for December 2011 when the 10 Day Notice was issued. At the hearing, the landlord asked for authorization to amend the amount of the monetary award sought to \$3,350.00. This increased monetary award reflected the tenant's non-payment of the \$1,600.00 owing as of December 16, 2011, the \$50.00 filing fee, plus unpaid rent of \$1,700.00 for January 2012. Under the circumstances, I allowed the landlords to increase the amount of the monetary award they were seeking.

Analysis

Based on the undisputed evidence provided by the landlords, I find that the landlords are entitled to a monetary award of \$3,350.00 for unpaid rent and for recovery of their filing fee for their application. I allow the landlords to retain the tenant's security deposit plus applicable interest in partial satisfaction of the monetary award issued in this decision. No interest is payable over this period.

Conclusion

The tenants' application is dismissed without leave to reapply. The landlords' application for an Order of Possession is withdrawn as this tenancy has ended.

I issue a monetary Order in the landlords' favour against the male tenant in the following terms which allows the landlords to recover unpaid rent and their filing fee and to retain the security deposit for this tenancy:

Item	Amount
Unpaid Portion of December 2011 Rent	\$1,600.00
Unpaid January 2012 Rent	1,700.00
Less Security Deposit	-850.00
Recovery of Landlords' Filing Fee for this application	50.00
Total Monetary Order	\$2,500.00

The landlords are provided with these Orders in the above terms and Tenant BB must be served with a copy of these Orders as soon as possible. Should Tenant BB 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.

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 12, 2012

Residential Tenancy Branch