



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord for an order of possession, and a monetary order for unpaid rent or rental income loss and the filing fee.

The Landlord provided affirmed testimony that they served each of the Tenants with the Application for Dispute Resolution, Notice of Hearing, and evidence on February 03, 2012 by registered mail. The Landlord provided into evidence a copy of the registered mail receipts and tracking numbers from Canada Post for each of the Tenants.

I find that each of the Tenants were served the Application and Notice of Hearing in accordance with section 88 of the Residential Tenancy Act (the "Act").

The Tenants did not participate in the conference call hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Preliminary Matter(s)

The Landlord testified that they no longer require an order of possession as the Tenants notified them that they had moved out of the rental unit on February 15, 2012. The Landlord testified that they checked the rental unit on February 17, 2012 to confirm it was vacant. As a result, the Landlord's request for an order of possession is dismissed.

Issue(s) to be Decided

Have the Tenants breached the Act, regulation, or tenancy agreement, entitling the Landlord to a monetary order for unpaid rent or rental income loss and recovery of the filing fee?

Background and Evidence

The signed tenancy agreement between the parties was submitted in the evidence by the Landlord. The tenancy agreement states that the tenancy commenced on March 01, 2011 and that rent is due on the first of each month. The tenancy agreement also states that the Tenants housing subsidy is based on income. The Landlord also

submitted into evidence a copy of the rental subsidy declaration of income and assets signed by the Tenants, which states the current rent as of September 01, 2011 as \$955.00 per month. The Landlord testified that there was no security deposit or pet deposit paid by the Tenants.

The Landlord testified that the Tenants failed to pay the full rent that was owed on December 01, 2011, and had a balance owing of \$795.00 at that time. The Landlord stated that they issued the Tenants a 10 Day Notice to End Tenancy for Unpaid Rent on December 08, 2011. The Notice states that the Tenants were required to move out by December 21, 2011 or pay the full amount of the outstanding rent within five days of receiving the Notice. The Landlord provided a copy of the Notice into evidence.

The Landlord stated that on January 01, 2012, they had rental income loss of \$955.00 as the Tenants had failed to move out and remained in the rental unit without paying the outstanding amounts. The Landlord stated that the balance owed as of January 01, 2012 was \$955.00 plus \$795.00 from December 2011, for a total of \$1,750.00. The Landlord stated that the Tenants paid \$600.00 on January 03, 2012 towards the outstanding rent, but the Landlord advised them that they would not be continuing the tenancy, and they issued a further 10 Day Notice to End Tenancy on January 09, 2012 for the outstanding rent of \$1,150.00 stating that the tenancy would end January 23, 2012. As the Tenants did not pay the full amount owing and did not move out on January 23, 2012, as required by the Notice. The Landlord stated that as the Tenants did not move out and did not pay the balance owed, as a result the Landlord also incurred rental income loss for February 2012 in the amount of \$955.00. The Landlord filed an Application for Dispute Resolution on February 02, 2012, which they served on each of the Tenants by registered mail on February 03, 2012.

The Landlord testified that the Tenants remained in the rental unit until February 15, 2012 when they telephoned the Landlord to state that they had moved out. The Landlord stated that they also confirmed that the rental unit was vacant on February 17, 2012 when they inspected it.

The Landlord requests a monetary order for \$2,105.00 for outstanding rent for December 2011 (\$195.00) and rental income loss for January 2012 (\$955.00) and February 2012 (\$955.00).

The Landlord has also applied for reimbursement of the \$50.00 filing fee for this proceeding.

Analysis

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

I accept the Landlord's evidence that the Tenants have moved out of the rental unit on February 15, 2012 and the Landlord now has possession of the rental unit.

Section 26 of the Act requires a tenant to pay rent when it is due under the tenancy agreement. In this case, the tenancy agreement submitted into evidence by the Landlord states that rent is due on the first of the month. I find that the Tenants failed to pay rent in full for December 2011 (\$195.00) and did not vacate the rental unit within 10 days of service of the Notice, causing the Landlord to have a rental income loss of \$955.00 for January 2012 and \$955.00 for February 2012 as well.

I find that the Landlord has established a monetary claim of \$2,105.00 for rent and rental income loss.

As the Landlord has succeeded in their Application, I find that the Landlord is entitled to recover the \$50.00 fee for this proceeding. I have added this amount to the monetary order against the Tenants bringing the total amount owing to \$2,155.00

Conclusion

I find that the Landlord is entitled to a monetary order in the amount of **\$2,155.00**. This order must be served on the Tenants and may be filed in the Provincial Court (Small Claims).

The order accompanies the Landlord's copy of this decision.

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: February 21, 2012.

Residential Tenancy Branch