



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OPC, MNR, MNDC, FF

Introduction

This hearing dealt with the landlord's 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 and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 3:15 p.m. in order to enable them to connect with this hearing scheduled for 3:00 p.m. 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 she posted a 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) on the tenants' door on February 2, 2012 and a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenants' door on February 5, 2012. The landlord testified that she handed the tenants a copy of the landlord's dispute resolution hearing package on February 18, 2012. I am satisfied that the landlord served these documents to the tenants in accordance with the *Act*.

At the commencement of the hearing the landlord withdrew her application for an end to this tenancy and an Order of Possession as she said that the tenants had vacated the rental unit by March 4, 2012 without leaving a forwarding address. The landlord's application to end to this tenancy and obtain an Order of Possession is withdrawn.

Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent and losses arising out of this tenancy? Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

This one-year fixed term tenancy commencing on November 23, 2011 was scheduled to end on October 31, 2012. Monthly rent was set at \$810.00, payable in advance on the

first of each month. The landlord continues to hold the tenants' \$405.00 security deposit paid on November 29, 2011.

The landlord's application for a monetary Order of \$2,085.00 included requests for \$405.00 in unpaid rent for February 2012, a \$20.00 late fee pursuant to their tenancy agreement for February 2012, \$810.00 for unpaid rent for March 2012, a \$20.00 late fee for March 2012, and a projected loss of \$810.00 for unpaid rent for April 2012 and a \$20.00 late fee for April 2012. The landlord testified that the tenants did not pay any portion of the \$405.00 in unpaid rent identified in the 10 Day Notice or anything further for March 2012. The landlord testified that she is in the process of showing the rental premises to prospective tenants and is hopeful that she may be able to locate new tenants to take possession either March 15, 2012 or April 1, 2012.

Analysis

I find undisputed evidence that the landlord is entitled to a monetary award of \$405.00 for unpaid rent owing from February 2012 and a \$20.00 late fee for that month.

Based on the tenants' decision to vacate the rental premises on March 4, 2012 in accordance with the effective date identified in the landlord's 1 Month Notice, I find that the landlord is entitled to a monetary award of \$405.00 for one-half the March 2012 rent. In doing so, I accept that the landlord is in the process of taking efforts to mitigate the tenants' losses in accordance with section 7(2) of the *Act*.

Although the landlord's application does not seek to retain the tenants' security deposit, using the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the security deposit plus applicable interest in partial satisfaction of the monetary award. No interest is payable over this period. As the landlord was successful in this application, I find that the landlord is entitled to recover the \$50.00 filing fee paid for this application.

Conclusion

I issue a monetary Order in the landlord's favour in the following terms which allows the landlord to recover unpaid rent and losses arising out of this tenancy, to recover the filing fee, and to retain the tenants' security deposit:

Item	Amount
Unpaid Portion of February 2012 Rent	\$405.00
February 2012 Late Fee	20.00
Unpaid Rent March 1- March 15, 2012	405.00
March 2012 Late Fee	20.00

Less Security Deposit	-405.00
Recovery of Filing Fee for this application	50.00
Total Monetary Order	\$495.00

The landlord is 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.

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 08, 2012

Residential Tenancy Branch