



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, OPR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlords for an order of possession based on unpaid rent, a monetary order for unpaid rent and an order to recover the filing fee for the Application.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure, although I refer only to the relevant facts and issues in this decision.

I note the parties agreed that the Tenant vacated the rental unit prior to the hearing taking place, and therefore, an order of possession is no longer required.

Issue(s) to be Decided

Has the Tenant breached the Act or tenancy agreement, entitling the Landlord to monetary relief?

Background and Evidence

Based on the affirmed testimony of the Landlord, I find that the Tenant was served with a Notice to End Tenancy for non-payment of rent in the amount of \$1,480.00.

The Tenant did not apply to dispute the notice and has not paid the rent due. The Tenant vacated the rental unit on May 29 or 30, 2012.

The Tenant agreed that rent was owed for the month of May 2012. During the hearing the Tenant agreed the Landlord should retain the security deposit in partial satisfaction of the rent due.

Analysis

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

Although the Landlords are entitled to an order of possession in these circumstances, the Tenant has vacated the rental unit and therefore, an order of possession is no longer required.

I find that the Tenant has failed to pay rent under the Act and tenancy agreement.

I find the Landlord has established a total monetary claim of **\$1,530.00** comprised of the rent owed for May 2012, and the \$50.00 fee paid by the Landlords for this application.

I allow the Landlord to amend the Application to include an order to keep the security deposit in partial satisfaction of the claim.

I order that the Landlords may retain the deposit of **\$740.00** in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of **\$790.00**.

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

The Landlords have leave to apply for further monetary orders.

The parties are at liberty to make a repayment arrangement.

Conclusion

The Tenant failed to pay rent, did not file to dispute the Notice and vacated the rental unit. Therefore, while an order of possession is appropriate here, it is not required in this situation.

The Landlords are granted a monetary order for rent, may keep the security deposit in partial satisfaction of the claim and have an order for the balance, and have leave to apply for further monetary compensation.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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: June 07, 2012.

Residential Tenancy Branch