



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, 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;
- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38; 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 11:11 a.m. in order to enable them to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. She testified that she handed Tenant KL a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on June 2, 2012. She said that she sent the tenants a copy of the landlord's dispute resolution hearing package by registered mail on June 12, 2012. She provided copies of the Canada Post Tracking Numbers and On-Line Tracking Records to confirm these mailings. 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 said that the tenants abandoned the premises on June 23, 2012, leaving their keys to the rental unit for the landlord. As the landlord has possession of the rental unit, she withdrew her application for an Order of Possession. The landlord's application for an Order of Possession is withdrawn.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 retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

This six-month fixed term tenancy commenced on March 1, 2012. Monthly rent is set at \$795.00, payable in advance on the first of each month. The landlord continues to hold the tenants' \$397.50 security deposit paid on February 22, 2012.

The landlord issued the 10 Day Notice for \$522.50, the amount of rent that was unpaid for June 2012 plus the \$25.00 late fee set out in section 10 of the residential tenancy agreement between the parties. The landlord testified that the tenants have not paid any portion of the \$522.50 identified as owing in the 10 Day Notice.

The landlord's application for a monetary award of \$1,342.50 included the above amounts identified in the 10 Day Notice for June 2012 plus \$795.00 in anticipated loss of rent for July 2012 and the \$25.00 late fee for July 2012. The landlord testified that it will be difficult to rent the premises for July as the tenants abandoned many of their belongings in the rental unit when they left the rental unit. She said that she has hired a truck to remove their possessions on the coming weekend. She said that cleaning will also start on the day after this hearing. She testified that she has been unable to show this suite, which would normally be an attractive rental opportunity, until such time as the tenants' possessions and furniture are removed and the premises cleaned.

Analysis

Based on the undisputed evidence submitted by the landlord, including the rent ledger for this tenancy, I find that the landlord is entitled to a monetary award for loss of \$497.50 in rent for June 2012 and the \$25.00 late fee for June 2012. I also allow the landlord a monetary award of \$382.50 to enable the landlord to recover the landlord's anticipated loss of rental income for the first half of July 2012, as I accept that it is unlikely that the rental unit will be able to be rented until at least the middle of July. There remains a possibility that this rental unit could be rented for the second half of July 2012. I dismiss the landlord's application for a late fee for July 2012 without leave to reapply, as the tenancy ended on June 23, 2012 when the landlord gained possession of the rental suite.

Conclusion

I issue a monetary Order in the landlord's favour under the following terms which allows the landlord to recover unpaid rent, loss of rent, and the filing fee for this application and to retain the tenants' security deposit:

Item	Amount
Unpaid June 2012 Rent	\$497.50
June 2012 Late Fee	25.00
Landlord's Loss of Rent July 2012	382.50
Less Security Deposit	-397.50
Recovery of Filing Fee for this application	50.00
Total Monetary Order	\$557.50

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.

The landlord's application for an Order of Possession is withdrawn.

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: June 29, 2012

Residential Tenancy Branch