



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR MNSD FF

Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the *Residential Tenancy Act* (the "Act") for an order of possession for unpaid rent or utilities, for a monetary order for unpaid rent or utilities, and to recover the filing fee.

The agent for the landlord appeared at the teleconference hearing and gave affirmed testimony. During the hearing the landlord was given the opportunity to provide their evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

The tenants did not attend the hearing. As a result, service was considered. The agent for the landlord testified that the tenants were served with the Notice of a Dispute Resolution hearing by registered mail on June 14, 2012. The agent provided a registered mail tracking number for each tenant and confirmed the names and dispute address matched the names and dispute address on the application. Documents served by registered mail are deemed served five days after mailing under the *Act*. The landlord stated the mail was returned from the post office as "not accepted". In accordance with section 90 of the *Act*, the tenants are deemed served in accordance with the *Act*.

Preliminary Matter

During the hearing, the agent for the landlord stated that the tenants vacated the rental unit a week or so before the end of June, 2012. As a result, the agent for the landlord withdrew the request for an order of possession as it was no longer required.

Issues to be Decided

- Should the landlord be granted a monetary order for unpaid rent or utilities?
- Should the landlord be permitted to retain all or part of a security deposit?
- Should the landlord recover the filing fee?

Background and Evidence

The landlord submitted a copy of the tenancy agreement as evidence. According to the tenancy agreement, a fixed term tenancy began on December 1, 2011. Monthly rent in the amount \$1,320.00 was due on the first of every month. A security deposit in the amount of \$660.00 was paid by the tenants at the start of the tenancy.

The agent for the landlord testified that the tenants moved out without notice and abandoned the rental unit by vacating without providing the keys to the unit. According to the agent, he contacted the local police who entered the unit and advised that it was vacant but damaged inside. The agent stated that rent for the months of June and July, 2012, for a total of \$2,640.00, has not been paid and remains owing. The agent for the landlord testified that he is hopeful that the rental unit can be repaired and re-rented for August 1, 2012.

The landlord provided a copy of the tenancy agreement, 10 Day Notice, and Proof of Service as evidence for the hearing. All relevant evidence has been considered in this Decision.

Analysis

Based on details of the application and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

Claim for June and July 2012 unpaid rent – The agent for the landlord testified that rent for the months of June and July 2012 was not paid. Pursuant to section 26 of the *Act* a tenant must pay rent when it is due in accordance with the tenancy agreement. Based on the above, I find that the tenant failed to comply with a standard term of the tenancy agreement which stipulates that rent is due monthly on the first of each month. I find the landlord has met the burden of proof and I award him a monetary claim of \$2,640.00 for unpaid rent.

Security deposit of the tenant - The tenants' security deposit of \$660.00 has accrued no interest since December 1, 2011. The landlord stated he has not been provided a forwarding address by the tenants and requested to retain the security deposit towards the unpaid rent.

The landlord has succeeded with his application; therefore I award recovery of the filing fee in the amount of **\$50.00**.

Monetary Order – I find that the landlord is entitled to a monetary claim of **\$2,690.00** consisting of \$2,640.00 in unpaid rent, and \$50.00 for the filing fee. This claim meets the criteria under section 72(2)(b) of the *Act* to be offset against the tenant's security deposit.

Conclusion

I find that the landlord has established a total monetary claim of **\$2,690.00** as indicated above. I order that the landlord retain the security deposit of \$660.00 in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance due of **\$2,030.00**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless 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: July 09, 2012

Residential Tenancy Branch