



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes 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 a monetary order for unpaid rent or utilities, to keep all or part of a security deposit, and to recover the filing fee.

The agent for the landlord appeared at the teleconference hearing and gave affirmed testimony. During the hearing the agent for 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 May 11, 2012. The agent provided a registered mail tracking number for each tenant and confirmed that the names and addresses matched the names and addresses on the application. Documents served by registered mail are deemed served five days after mailing under the *Act*. I find the tenants were duly served in accordance with the *Act*.

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 agent for the landlord stated that a month to month tenancy began on March 1, 2011. The agent testified that monthly rent in the amount \$549.00 was due on the first day of every month. A security deposit in the amount of \$274.50 was paid by the tenants at the start of the tenancy.

The agent for the landlord testified that the tenants paid \$50.00 towards April 2012 rent which left an amount owing of \$499.00 in unpaid rent. The agent stated that they are seeking a monetary order of \$499.00 for unpaid rent, to keep all of the security deposit, and to recover the filing fee.

The agent for the landlord stated that the tenants provided written notice on April 2, 2012 that they were vacating the rental unit. The agent stated that the tenants vacated the rental unit on April 30, 2012. The landlord filed the application for dispute resolution on May 9, 2012, for unpaid rent and to claim against the security deposit.

The landlord provided a copy of the tenancy agreement, correspondence, 10 Day Notice and registered mail receipts as evidence. 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 April 2012 unpaid rent – The agent for the landlord testified that the tenants did not vacate the rental unit until April 30, 2012 and only paid \$50.00 towards the rent leaving a balance owing of \$499.00. 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 the landlord a monetary claim of \$499.00 for unpaid rent.

Security deposit of the tenant - The tenants' security deposit of \$274.50 has accrued no interest since March 1, 2011. The landlord submitted a claim against the security deposit within 15 days in accordance with section 38 of the *Act*.

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 **\$549.00** consisting of \$499.00 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 **\$549.00** as indicated above. I order that the landlord retain the security deposit of \$274.50 in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance due of **\$274.50**. 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 10, 2012

Residential Tenancy Branch