



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR MNDC FF

Introduction

This hearing dealt with a landlords' Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for an order of possession for unpaid rent, a monetary order for unpaid rent, for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and to recover the filing fee.

The landlords appeared at the teleconference hearing and gave affirmed testimony. During the hearing the landlords were 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 landlords testified that the tenant was served the Notice of a Dispute Resolution Hearing on June 15, 2012 in person. The landlords stated that the tenant tore up the package in front of them and threw it. The tenant did not attend the hearing. I find that the tenant was served in accordance with the *Act*.

Preliminary Matter

At the start of the hearing, the landlords stated that the tenant has vacated the rental unit. As a result, the landlords withdrew their request for an order of possession as it was no longer necessary.

Issue(s) to be Decided

- Should the landlord be granted a monetary order for unpaid rent or for money owed or compensation under the *Act*, regulation or tenancy agreement?
- Should the landlord recover the filing fee?

Background and Evidence

The landlords affirmed that a month to month tenancy agreement began on April 15, 2012. The landlords stated that rent was due on the first day of each month in the amount of \$800.00. The landlords affirmed that the tenant paid \$400.00 as a security deposit at the start of the tenancy.

The landlord confirmed service of the 10 Day Notice for Unpaid Rent or Utilities (the "Notice") dated June 2, 2012, by posting on the tenant's door on June 2, 2012 with an effective date of June 2, 2012. The landlords stated that they also hand delivered a copy of the Notice in person to the tenant on June 3, 2012, however the tenant refused to provide a signature indicating that she received the Notice. A proof of service document was provided as evidence which indicates that the service was witnessed by a third party. The landlords submitted their application on June 14, 2012.

The landlords testified that \$400.00 of the \$800.00 rent was paid in May 2012, leaving an amount owing of \$400.00 for May 2012 rent. The landlords stated that the tenant did not pay any rent for the months of June or July 2012. The landlords testified that the tenant vacated the rental unit on July 6, 2012. The landlords' monetary claim is for \$2,000.00 consisting of \$400.00 owing for May 2012 rent, and \$800.00 in unpaid rent for June 2012 and \$800.00 in unpaid rent for July 2012.

The landlord provided copies of the tenancy agreement, correspondence, notices, proof of service document, a doctor's note, and a memory stick as evidence for this proceeding. All of the relevant evidence has been considered in this Decision.

Analysis

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

10 Day Notice – The effective date on the Notice indicated June 2, 2012. The effective date corrects under the *Act* to June 12, 2012.

Claim for unpaid rent– The landlords testified that \$400.00 remains owing in unpaid rent for May 2012, and rent for the months of June and July 2012 have not been paid. The landlords stated that the tenant did not vacate the rental unit until July 6, 2012. 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 has failed to comply with a standard term of the tenancy agreement which stipulates that rent is due

monthly on the first of each month. The landlords affirmed that they have not received the rent in full for May, June or July, 2012. I find the landlords have met the burden of proof and I award the landlords a monetary claim of **\$2,000.00** for unpaid rent.

The landlords are holding a security deposit of \$400.00 which was paid by the tenant in April 2012. No interest has accrued since the date the security deposit was provided to the landlord by the tenant.

The landlords have succeeded with their application; therefore I award recovery of the **\$50.00** filing fee.

Monetary Order – I find that the landlords are entitled to a monetary order and that this claim meets the criteria under section 72(2)(b) of the *Act* to be offset against the tenant's security deposit plus interest as follows:

Portion of May 2012 rent owing	\$400.00
Full June 2012 rent owing	\$800.00
Full July 2012 rent owing	\$800.00
Filing fee	\$50.00
Subtotal	\$2,050.00
Less security deposit	(\$400.00)
TOTAL	\$1,650.00

Conclusion

I find that the landlords have established a total monetary claim of **\$1,650.00** as indicated above. I order that the landlord retain the security deposit of \$400.00 in partial satisfaction of the claim and I grant the landlords a monetary order under section 67 for the balance due of **\$1,650.00**. 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 11, 2012

Residential Tenancy Branch