



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlords' 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 1:42 p.m. in order to enable them to connect with this teleconference hearing scheduled for 1:30 p.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) was posted on the tenants' door on August 16, 2012. The landlord who attended this hearing (the landlord) entered into written evidence a copy of a Proof of Service statement issued by the landlord's representative who posted the 10 Day Notice. The landlord testified that she sent all three tenants a copy of the landlords' dispute resolution package by registered mail. She entered into written evidence copies of the Canada Post Tracking Numbers confirming each of these registered mailings. She testified that all three packages have been returned to the landlord as undeliverable. I am satisfied that the landlords served the above documents to the tenants in accordance with the *Act*.

The landlord testified that the tenants vacated the rental unit by September 24, 2012, without leaving their forwarding address. She withdrew the landlords' application to end this tenancy and obtain an Order of Possession. The landlords' application for an Order of Possession is withdrawn.

Issues(s) to be Decided

Are the landlords entitled to a monetary award for unpaid rent and losses arising out of this tenancy? Are the landlords entitled to retain all or a portion of the tenants' security

deposit in partial satisfaction of the monetary award requested? Are the landlords entitled to recover the filing fee for this application from the tenants?

Background and Evidence

This one-year fixed term tenancy commenced on October 1, 2011. Monthly rent was set at \$1,350.00, payable in advance on the first of each month. The landlords continue to hold the tenants' \$675.00 security deposit paid on September 19, 2011.

The 10 Day Notice was issued because the tenants had not paid their \$1,350.00 rent due on August 1, 2012. The landlord testified that the tenants have not paid anything towards their outstanding rent since the 10 Day Notice was issued on August 16, 2012. The landlords' application for a monetary award of \$4,231.60 included the following:

Item	Amount
Rent Owing from July 2012	\$181.60
August 2012 Rent	1,350.00
September 2012 Rent	1,350.00
Anticipated Loss of Rent for October 2012	1,350.00
Total Monetary Award Requested	\$4,231.60

Analysis

The landlords entered into written evidence a rent ledger covering the period from December 31, 2011 to September 1, 2012. The landlord had no explanation when I questioned her about a \$450.00 payment made towards this tenancy on August 1, 2012. However, the tenants did not dispute the landlords' 10 Day Notice seeking payment of \$1,350.00, identified as owing as of August 16, 2012. Based on the landlords' written evidence, I find that the landlords have demonstrated entitlement to a monetary award of \$1,350.00 for August 2012, the amount identified as owing in the 10 Day Notice. I also find that the landlords have demonstrated their entitlement to a monetary award of \$1,350.00 for September 2012.

The rent ledger showed a balance of \$30.00 owing as of July 2, 2012. The landlord provided no evidence with respect to \$601.60 identified as owing on July 6, 2012 on that ledger. The landlord provided no explanation as to why only \$1,350.00 was identified as owing in the 10 Day Notice issued on August 16, 2012. For these reasons, I am not satisfied that the landlords have proven their claim for outstanding rent owing from July 2012. I dismiss the landlords' application for a monetary claim for unpaid rent for July 2012 without leave to reapply.

This fixed term tenancy was scheduled to end by September 30, 2012. The tenants vacated the rental unit in accordance with the landlord's 10 Day Notice prior to that date. The landlord testified that she did know whether the rental unit has been rented for October 2012, or whether attempts were made to rent it for that month. For these reasons, I find that the landlords have not provided sufficient evidence to demonstrate entitlement to a monetary award for loss of rental for October 2012. I dismiss this element of the landlords' application for a monetary award without leave to reapply.

I order the landlords to retain the tenants' \$675.00 security deposit plus applicable interest in partial satisfaction of the monetary award issued in this decision. No interest is payable over this period. As the landlords have been successful in their application, I allow them to recover their filing fee for this application from the tenants.

Conclusion

The landlords' application for an end to this tenancy and an Order of Possession is withdrawn. I issue a monetary Order in the landlords' favour under the following terms which allows the landlords to recover unpaid rent and their filing fee and to retain the tenants' security deposit:

Item	Amount
August 2012 Rent	\$1,350.00
September 2012 Rent	1,350.00
Less Security Deposit	-675.00
Filing Fee for this Application	50.00
Total Monetary Order	\$2,075.00

The landlords are 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.

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: October 17, 2012

Residential Tenancy Branch