



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 was convened by way of conference call in response to the landlords application for an Order of Possession for unpaid rent; for a Monetary Order for unpaid rent; for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; and to recover the filing fee from the tenants for the cost of this application.

At the outset of the hearing the landlord advised that the tenants are no longer residing in the rental unit, and therefore, the landlord withdraws the application for an Order of Possession.

Service of the hearing documents, by the landlord to the tenants, was done in accordance with section 89 of the *Act*, sent via registered mail on October 19, 2012. Mail receipt numbers were provided in the landlord's documentary evidence. The tenants were deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlords agent appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenants, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Is the landlord entitled to a Monetary Order to recover unpaid rent?
- Is the landlord entitled to a Monetary Order for money owed or compensation for damage or loss?

Background and Evidence

The landlord testifies that this tenancy started on August 01, 2011. This was a one year fixed term tenancy which reverted to a month to month tenancy at the end of the fixed term. Rent for this unit was \$825.00 per month which increased to \$850.00 per month on September 01, 2012. Rent was due on the first day of each month.

The landlord's agent testifies that the tenants failed to pay rent for October, 2012 and a 10 day Notice was served to the tenants on October 02, 2012 by posting it to the tenants' door. This notice informs the tenants that they owe rent of \$870.00 and the notice will become effective on October 13, 2012 if the tenant do not pay the outstanding rent or apply to dispute the notice within five days.

The landlord's agent testifies the tenants did not pay the rent and have since moved from the unit on October 31, 2012. The landlords agent testifies that the amount of rent owed is \$850.00 and a \$20.00 late fee has been applied as specified under the tenancy agreement. The landlord seeks to recover the unpaid rent and late fee and the \$50.00 filing fee.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of the landlord.

Section 26 of the Act states: *A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

Consequently as the tenants have not appeared to dispute the landlord's evidence I find the tenants owe rent for October, 2012 of \$850.00. I further find that the tenancy agreement has a clause that notifies the tenants that a late fee of \$20.00 will be charged if rent is late. The landlord is therefore entitled to recover a late fee for Octobers rent of \$20.00. The landlord has therefore established a claim for a Monetary Order to recover the sum of **\$870.00** pursuant to s. 67 of the *Act*.

As the landlord has been successful with his amended claim I find the landlord is entitled to recover the **\$50.00** filing fee for this proceeding pursuant to s.72(1) of the *Act*.

Conclusion

I HEREBY FIND in favor of the landlord's amended monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$920.00**. The order must be served on the respondents and is enforceable through the Provincial Court as an order 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: November 23, 2012.

Residential Tenancy Branch