



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, 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 pursuant to section 67;
- authorization to retain all or a portion of the tenants' pet damage and security deposits (the deposits) 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 3:13 p.m. in order to enable the tenants to connect with this teleconference hearing scheduled for 3:00 p.m. The female landlord (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 she posted a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenants' door at 3:54 p.m. One of her co-workers signed a Proof of Service document attesting to her posting of the 10 Day Notice on the tenants' door at that time and date. The landlord testified that she sent both tenants a copy of her dispute resolution hearing package on January 17, 2013. She provided copies of Canada Post Tracking Numbers to confirm these registered mailings. She was certain that the male tenant accepted the hearing package sent to him. I am satisfied that the landlords served the above documents to the tenants in accordance with the *Act*.

At the commencement of this hearing, the landlord testified that the tenants had vacated the rental unit by January 24, 2013. As she has possession of the rental unit, she withdrew her application for an Order of Possession based on the 10 Day Notice. The landlord's application to an Order of Possession is withdrawn.

The landlord also reduced the amount of her requested monetary award from \$1,850.00 to \$1,000.00 to reflect the tenants' departure from the rental unit before monthly rent became due for February 2013.

Issues(s) to be Decided

Are the landlords entitled to a monetary award for unpaid rent? Are the landlords entitled to retain all or a portion of the tenants' deposits 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 tenancy commenced as a one-year fixed term tenancy on August 1, 2011. At the expiration of the initial term, the tenancy continued as a periodic tenancy. Monthly rent was set at \$925.00, payable in advance on the first of each month. The landlords continue to hold the tenants' \$925.00 deposits paid on August 2, 2011.

The landlord testified that the tenants did not pay their January 2013 rent, prompting the issuance of her 10 Day Notice. The landlord also requested the recovery of the \$25.00 late fee as set out in the written residential tenancy agreement entered into written evidence by the landlords.

Analysis

Based on the undisputed evidence submitted by the landlords, I find the landlords are entitled to a monetary award of \$925.00 for unpaid rent for January 2013, plus the \$25.00 late fee for that month. As the landlords have been successful in this application, I allow the landlords to recover their \$50.00 filing fee from the tenants.

To implement the above monetary award, I allow the landlords to retain the tenants' deposits plus applicable interest. No interest is payable over this period.

Conclusion

I issue a monetary Order in the landlords' favour under the following terms, which allows the landlords to recover unpaid rent, the late fee for January 2013 and their filing fee, and to retain the tenants' deposits:

Item	Amount
Unpaid January 2013 Rent	\$925.00
January 2013 Late Fee	25.00
Less Pet Damage & Security Deposits	-925.00
Recovery of Filing Fee for this Application	50.00
Total Monetary Order	\$75.00

The landlord is provided with these Orders in the above terms and the tenant(s) must be served with an **Original Order** 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.

The landlords' application for an Order of Possession is withdrawn.

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: February 07, 2013

Residential Tenancy Branch

