



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' pet damage and security deposits (the deposits) in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover their filing fee for this application from the tenants pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to cross-examine one another. The male tenant (the tenant) confirmed that the tenants received 10 Day Notices to End Tenancy for Unpaid Rent (the 10 Day Notices) sent by the landlords by registered mail on December 27, 2013, January 5, 2013, and February 19, 2013, respectively. The tenant also confirmed that the male landlord (the landlord) handed him a copy of the landlords' dispute resolution and written evidence packages on March 7, 2013. I am satisfied that the above documents were served to the tenants.

At the commencement of the hearing, the parties confirmed that the tenants vacated the rental unit by February 20, 2013. As this tenancy has ended, the landlord withdrew their application for an Order of Possession. This portion of the landlords' application is withdrawn.

Issues(s) to be Decided

Are the landlords entitled to a monetary award for loss 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 9-month fixed term tenancy commenced on September 26, 2012. Monthly rent was set at \$1,350.00, payable in advance on the first of each month, plus 60% of the utilities for this rental property. The landlords continue to hold the tenants' \$675.00 security deposit and \$100.00 pet damage deposit, both paid on September 22, 2012.

The landlords' application for a monetary award of \$5,000.00 was for authorization to recover \$225.00 in unpaid rent owing from September 2012, \$1,350.00 in unpaid rent for each of January 2013 and February 2013, and \$1,350.00 for loss of rent for March 2013. The landlords also requested recovery of late fees for four months, including December 2012, and authorization to retain the tenants' deposits.

At the hearing, I rejected the landlord's request to increase the amount of the monetary award sought in this application to \$10,271.70, to reflect damage that became evident once the tenants vacated the rental property on February 20, 2013. Although the landlords had entered into evidence documents and a CD relating to this increased claim, the landlord confirmed that he had not amended his original application for dispute resolution, as it was too close to the date of the hearing when he discovered the damage. The tenant said that he had not been able to open the CD, as it was blank. I advised both parties that the landlords' claim for damage was not properly before me and I would consider only the \$5,000.00 request for a monetary Order identified in the landlords' original application for dispute resolution. The landlords are at liberty to apply for a monetary Order for damage, as that claim has not been submitted as part of the current application for dispute resolution.

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing, the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties agreed to resolve the issues currently before me in the landlords' application under the following final and binding terms:

1. Both parties agreed that the monetary issues in dispute at this hearing will be resolved by the tenants' agreement to pay the landlords a total of \$4,275.00.

2. The tenant agreed on behalf of the tenants to pay the landlords \$100.00 on March 15, 2013.
3. The tenant agreed on behalf of the tenants that as of March 31, 2013, they would commence paying the landlords \$250.00 on the 15th and the last day of each month until such time as the \$4,275.00 owed to the landlords has been repaid in full.
4. Both parties agreed that this settlement agreement constituted a final and binding resolution of the landlords' claim for unpaid rent and late fees arising out of this tenancy.

Conclusion

In order to implement the above settlement reached between the parties, I issue a monetary Order in the landlord's favour in the amount of \$4,275.00. I deliver this Order to the landlords in support of the above agreement for use **only** in the event that the tenants do not abide by the terms of the above settlement. 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 after a failure to comply with the terms of the above settlement agreement. 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: March 14, 2013

Residential Tenancy Branch

