



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the respondents' security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover their filing fee for this application from the respondents pursuant to section 72.

The respondents did not attend this hearing, although I waited until 9:45 a.m. in order to enable them to connect with this teleconference hearing scheduled for 9:30 a.m.

Landlord MRB (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 (the 10 Day Notice) was handed to the male respondent (Tenant SS) on March 7, 2013. The landlord said that he realizes that this 10 Day Notice was not on the proper Residential Tenancy Branch form and, consequently, could not have been used to obtain an Order of Possession.

The landlord testified that he handed both respondents copies of the landlords' dispute resolution hearing package on April 2, 2013. He said that Tenant SS took this package from him and threw it on the ground. I am satisfied that the landlords' dispute resolution hearing packages were served to the respondents in accordance with the *Act*.

By way of a separate agreement between the parties, the respondents provided the landlords with a used desk in place of a standard security deposit. The landlord testified that there is no monetary security deposit held by the landlords. As such, there is no need to consider the landlords' application to retain the security deposit.

Issues(s) to be Decided

Are the landlords entitled to a monetary award for unpaid rent? Are the landlords entitled to recover the filing fee for this application from the tenants?

Background and Evidence

This five-month fixed term tenancy began on February 1, 2013. Monthly rent was set at \$1,300.00, payable in advance on the first of each month.

The landlords applied for a monetary award of \$2,640.00. This amount included unpaid rent of \$1,300.00 for each of February and March 2013, and two \$20.00 NSF cheque fees as set out in their Residential Tenancy Agreement (their Agreement). The landlord testified that the landlords have not received any payments towards this tenancy since the landlords handed the tenants the 10 Day Notice. The landlord testified that both respondents had vacated the rental unit by March 20 or 21, 2013. The landlord said that he was successful in locating new tenants who took possession on April 1, 2013, for the same monthly rent as was being obtained in the respondents' tenancy.

Analysis

In reviewing the Agreement entered into written evidence by the landlords, I note that only the male respondent was identified as a tenant in that Agreement and only the male respondent signed the Agreement. Consequently, I am unable to consider the landlords' application to include the female respondent in the monetary Order requested by the landlords.

Based on the landlords' undisputed evidence, I find that the landlords are entitled to a monetary Order of \$1,300.00 in unpaid rent for each of February and March 2013. I also allow the landlords' application to recover two \$20.00 NSF cheque fees as set out in the Agreement. As the landlords have been successful in their application, I allow them to recover their \$50.00 filing fee. As noted above, this monetary Order allows the landlords to recover monies owed by Tenant SS for this tenancy.

Conclusion

I issue a monetary Order in the landlords' favour against Tenant SS under the following terms, which allows the landlords to recover from Tenant SS unpaid rent and fees owing for this tenancy and to recover their filing fee.

Item	Amount
Unpaid February 2013 Rent	\$1,300.00
NSF Cheque Fee – February 2013	20.00
Unpaid March 2013 Rent	1,300.00
NSF Cheque Fee – March 2013	20.00
Recovery of Filing Fee for this Application	50.00
Total Monetary Order	\$2,690.00

The landlords are provided with these Orders in the above terms and Tenant SS must be served with this Order as soon as possible. Should Tenant SS 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: June 24, 2013

Residential Tenancy Branch

