



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, 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 or utilities; for a Monetary Order for unpaid rent or utilities; for an Order permitting the landlord to keep all or part of the tenants security and pet deposit; 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 tenant for the cost of this application.

At the outset of the hearing the landlords advised that the tenant is no longer residing in the rental unit, and therefore, the landlords withdraws the application for an Order of Possession.

Service of the hearing documents, by the landlords to the tenant, was done in accordance with section 89 of the *Act*; and was served in person to the tenant on July 16, 2013.

The landlords appeared, gave sworn testimony, were provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenant, 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

- Are the landlords entitled to a Monetary Order for unpaid rent?
- Are the landlords entitled to a Monetary Order for money owed or compensation for damage or loss?
- Are the landlords permitted to keep the security and pet deposits?

Background and Evidence

The landlords testify that this tenancy started on January 01, 2012 for a fixed term until April 01, 2012 and then reverted to a month to month tenancy. Rent for this unit was \$950.00 per month due on the 1st day of each month. The tenant paid a security deposit of \$475.00 on December 28, 2011 and a pet deposit of \$100.00 in installments later in the tenancy. The tenancy ended on July 26, 2013 and to date the tenant has not provided a forwarding address to the landlords.

The landlords testify that the tenant failed to pay rent for July, 2013. A 10 Day Notice to End Tenancy was served upon the tenant on July 02, 2013 in person. The Notice informed the tenant that the tenant had five days to pay the rent or to dispute the Notice or the tenancy would end on July 02, 2013. The landlords' testify that the tenant failed to pay the rent and the landlords seek to recover the rent of \$950.00.

The landlords' testify that they have tried to re-rent the unit for August by placing advertisements on internet sites starting in July, 2013. The unit was not re-rented for August but was re-rented for September 01, 2013. The landlords seek to recover a loss of rent for August of \$950.00.

The landlords' request an Order permitting the landlords to keep the tenants security and pet deposit to a total amount of \$575.00. The landlords had added this amount to

their monetary claim in error on their application instead of subtracting it. The landlords also seek to recover the \$50.00 filing fee from the tenant.

Analysis

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

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.*

I am satisfied with the landlords' undisputed claim that the tenant failed to pay rent for July, 2013 of **\$950.00**. Consequently the landlords are entitled to recover this amount from the tenant.

With regard to the landlords' claim for a loss of rent for August, 2013; I refer the parties to the Residential Tenancy Policy Guidelines # 3 which provides guidance on a loss of rental income and states, in part, that In a month to month tenancy, if the tenancy is ended by the landlord for non-payment of rent, the landlord may recover any loss of rent suffered for the next month as a notice given by the tenant during the month would not end the tenancy until the end of the subsequent month. The landlords did attempt to mitigate the loss by trying to re-rent the unit as quickly as possible however the unit could not be re-rented for August. Consequently I am satisfied that the landlords have established a claim for a loss of rent for August 2013 of **\$950.00**.

I ORDER the landlords to keep the tenants security and pet deposit to a total amount of **\$575.00** pursuant to s. 38(4)(b) of the *Act*. This amount will be offset against the landlords claim. I further find the landlords are entitled to recover the **\$50.00** filing fee

from the tenant pursuant to s. 72(1) of the *Act*. A Monetary Order has been issued to the landlords for the following amount:

Unpaid rent for July	\$950.00
Loss of rent for August	\$950.00
Subtotal	\$1900.00
Plus filing fee	\$50.00
Less security and pet deposit	(-\$575.00)
Total amount due to the landlords	\$1,375.00

Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlords' decision will be accompanied by a Monetary Order for **\$1,375.00**. The order must be served on the respondent 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: August 26, 2013

Residential Tenancy Branch

