



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 dealt with the landlord's 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' security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover his filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 11:11 a.m. in order to enable them to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, and to make submissions. The landlord testified that one of the landlord's representatives handed the tenants a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on September 23, 2013. The landlord testified that he sent a copy of the landlord's dispute resolution hearing package to the tenants by registered mail on Monday, October 21, 2013. He also testified that he handed a copy of the landlord's hearing package to the tenants at the rental unit on Friday, October 25, 2013. As the landlord did not have a Canada Post Tracking Number to confirm his registered mailing, I find that the deemed service by registered mail has not been demonstrated by the landlord. However, based on the landlord's undisputed sworn testimony, I find that the tenants were served with the landlord's dispute resolution hearing package in person on October 25, 2013.

At the commencement of this hearing, the landlord testified that the tenants surrendered vacant possession of the rental unit to the landlord on October 31, 2013. As the landlord already has possession of the rental unit, the landlord withdrew the application

for the issuance of an Order of Possession based on the 10 Day Notice. The landlord's application for an Order of Possession is withdrawn.

Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent? Is the landlord entitled to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

This two-year fixed term tenancy commenced on January 7, 2013. Monthly rent was set at \$2,400.00, payable in advance on the 6th of each month. The landlord continues to hold the tenants' \$1,200.00 security deposit paid on or about January 7, 2013.

The landlord's application for a monetary award of \$9,600.00 identified unpaid rent of \$2,400.00 owing for each of July, August, September and October 2013. The landlord testified that after receiving the 10 Day Notice, the tenants have not paid anything further to the landlord.

Analysis

Based on the undisputed sworn testimony and the information contained in the landlord's application for dispute resolution, I find that the landlord is entitled to a monetary award of \$9,600.00, the amount claimed for the four months in question. I allow the landlord to retain the tenants' security deposit plus applicable interest in partial satisfaction of this monetary award. No interest is payable over this period. As the landlord has been successful in this application, the landlord is entitled to recover the \$100.00 filing fee he paid for this application for dispute resolution from the tenants.

Conclusion

I issue a monetary Order in the landlord's favour under the following terms, which allows the landlord to recover unpaid rent and the filing fee, and to retain the security deposit:

Item	Amount
Unpaid July 2013 Rent	\$2,400.00
Unpaid August 2013 Rent	2,400.00
Unpaid September 2013 Rent	2,400.00
Unpaid October 2013 Rent	2,400.00
Less Security Deposit	-1,200.00
Recovery of Filing Fee for this Application	100.00
Total Monetary Order	\$8,500.00

The landlord is provided with these Orders in the above terms and the tenant(s) must be served with this 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 landlord's 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: November 25, 2013

Residential Tenancy Branch

