



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Tenant's Application: CNR, DRI, OLC, MNDC, RR, O
Landlord's Application: OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing was scheduled to deal with cross applications involving a 10 Day Notice to End Tenancy for Unpaid Rent, among other things. The landlords appeared at the hearing but the tenant did not despite leaving the teleconference call open for at least 15 minutes.

The landlords confirmed receipt of the tenant's Application for Dispute Resolution. Since the landlords were prepared to deal with the tenant's Application, in the tenant's failure to appear, I dismissed his Application for Dispute Resolution in its entirety.

The female landlord testified that the tenant was served with the landlord's Application for Dispute Resolution in person, at the rental unit, on December 23, 2013. Based on this undisputed submission, I accepted that the tenant was served with the landlord's Application and I continued to hear from the landlords without the tenant present.

At the outset of the hearing, the landlords stated that the tenant vacated the rental unit last night and the landlords confirmed that they have regained possession of the unit. Accordingly, I found that an Order of Possession was no longer required and I do not provide one with this decision.

Issue(s) to be Decided

Are the landlords entitled to a Monetary Order for unpaid and/or loss of rent?
Are the landlords authorized to retain the security deposit?

Background and Evidence

A verbal tenancy agreement formed June 24, 2013 and the tenant paid a security deposit of \$425.00. The tenant was required to pay rent of \$850.00 on the 1st day of every month.

The tenant failed to pay rent for December 2013 and the landlords served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent. The tenant failed to dispute the 10 Day Notice but did not pay the rent for December 2013. No monies were received for the months of January or February 2014. The tenant vacated the rental unit on February 3, 2014 and, according to the landlords, left a big mess.

The landlords applied to recover unpaid and/or loss of rent for the months of December 2013 through March 2014.

Analysis

Under the Act, a tenant is required to pay rent when due, even if the landlord has violated the Act, regulations or tenancy agreement, unless the tenant has a legal right to withhold rent. I was not provided any evidence to suggest the tenant had a legal right to withhold rent. Therefore, I grant the landlords' request to recover unpaid rent for the month of December 2013.

Since the tenant continued to occupy the rental unit until February 3, 2014 I find the landlords suffered a further loss of rent for the months of January 2014 and February 2014 due to the tenant's actions. Therefore, I award the landlords loss of rent for these months as well.

I find the landlords' claim for loss of rent for March 2014 to be pre-mature since the landlords have not yet incurred such a loss as of this date. Therefore, that portion of the landlords' claim is dismissed with leave.

I award the filing fee to the landlords and authorize the landlords to retain the tenant's security deposit in partial satisfaction of the unpaid rent.

Provided to the landlords is a Monetary Order calculated as follows:

Unpaid rent: December 2013	\$ 850.00
Loss of rent: January and February 2014	1,700.00
Filing fee	50.00
Less: security deposit	<u>(425.00)</u>
Monetary Order	\$2,175.00

The Monetary order must be served upon the tenant and may be filed in Provincial Court (small Claims) to enforce as an Order of the court.

Conclusion

The landlords have been authorized to retain the tenant's security deposit and have been provided a Monetary Order for the balance of \$2,475.00 to serve and enforce as necessary.

The tenant's application has been dismissed.

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 04, 2014

Residential Tenancy Branch

