



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MND, MNR, MNSD, OPR

Introduction

This is an application for an Order of Possession based on a Notice to End Tenancy for nonpayment of rent, a request for a Monetary Order for \$8750.00, and a request to retain the full security deposit towards the claim.

The applicant testified that the respondent(s) were served with notice of the hearing by personal service on November 25, 2013, however the respondent(s) did not join the conference call that was set up for the hearing.

It is my finding that the respondent(s) have been properly served with notice of the hearing.

All testimony was taken under affirmation.

Issue(s) to be Decided

At the beginning of the hearing the applicant testified that the tenants have vacated the rental unit as of November 30, 2013, and therefore she no longer requires an Order of Possession.

The issue therefore is whether or not the applicant has established a monetary claim for \$8750.00.

Background and Evidence

The applicant testified that:

- This tenancy began on August 1, 2013 with the monthly rent of \$1600.00, and at that time a security deposit of \$800.00 was collected.

- September 2013 rent was paid late however it was fully paid, she is however requesting late fees of \$35.00 per month as per the tenancy agreement.
- The tenants failed to pay the October 2013 rent, and as a result they were served with a 10 day Notice to End Tenancy for nonpayment of rent.
- The tenants failed to comply with that notice and therefore on November 25, 2013 she applied for Dispute Resolution.
- The tenants subsequently vacated the rental unit on November 30, 2013, however they paid no rent for the months of October 2013, or November 2013.
- The tenants also owed outstanding utilities at the end of the tenancy.
- The tenants also caused extensive damage to the yard of the rental property and as a result extensive repairs to the yard are required.

She is therefore requesting a Monetary Order as follows:

| | |
|--------------------------------|-----------|
| September 2013 late fee | \$35.00 |
| October 2013 rent outstanding | \$1600.00 |
| October 2013 late fee | \$35.00 |
| November 2013 rent outstanding | \$1600.00 |
| November 2013 late fee | \$35.00 |
| Utilities outstanding | \$350.00 |
| Damages to garden | \$5000.00 |
| Total | \$8655.00 |

Analysis

It is my finding that the landlord has shown that the rent is outstanding for the months of October 2013, and November 2013 and therefore I allow that portion of the claim.

It is also my finding that the landlord has shown that the rent has been paid late on three occasions and therefore I allow a portion of the landlords claim for late rent fees. The applicant has claimed \$35.00 per month, however the Residential Tenancy Regulations allow a maximum late fee of \$25 per month. I therefore allow \$75.00 of the claim for late fees.

I'm dismissing with leave to reapply the claims for utilities, and for damage to the garden, as the applicant has failed to supply sufficient evidence to establish this portion of her claim. The applicant has supplied no utility bills, nor has the applicant supplied any independent estimates for the cost of repairing the alleged yard damage.

Therefore the total amount of the claim that I have allowed is as follows:

| | |
|------------------------|-----------|
| Total rent outstanding | \$3200.00 |
| Late fees \$25.00 X 3 | \$75.00 |
| Total | \$3275.00 |

Conclusion

I have allowed \$3275.00 of the landlords claim and I therefore Order that the landlord may retain the full security deposit of \$800.00, and I've issued a Monetary Order in the amount of \$2475.00.

As stated above the claims for outstanding utilities and for damage to the yard are dismissed with leave to reapply.

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: December 12, 2013

Residential Tenancy Branch

