



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Wall Street Holdings
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, 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 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 the filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 11:15 a.m. in order to enable them to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord's representative (the landlord) attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord entered into written evidence a copy of the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) handed to the tenant on February 3, 2014. The landlord also entered into written evidence a Proof of Service document signed by Tenant DC, confirming his receipt of the 10 Day Notice on February 3, 2014. I am satisfied that the tenants were served with the 10 Day Notice on February 3, 2014.

The landlord gave sworn oral testimony and written evidence that he sent both tenants copies of both the original dispute resolution hearing package on February 15, 2014, and the amended package on March 16 and March 24, 2014. He entered into written evidence Canada Post Tracking Numbers and Customer Receipts to confirm these registered mailings. He testified that Canada Post records show that the tenants received the original hearing package. In accordance with sections 89 and 90 of the *Act*, I find that the original hearing packages were deemed served to the tenants on February 20, 2014, the fifth day after their registered mailing, and the amended packages were deemed served by at least April 1, 2014.

At the commencement of this hearing, the landlord withdrew his application for an Order of Possession because the tenants vacated the rental unit on or about March 29, 2014. The landlord's application for an Order of Possession is hereby 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 periodic tenancy began on September 1, 2011. Monthly rent was set at \$1,200.00, payable on the first of each month. The landlord continues to hold the tenants' \$600.00 security deposit paid on or about September 1, 2011.

The landlord originally applied for a monetary award of \$1,250.00. The landlord's amended application for a monetary award of \$1,850.00 included requests for recovery of unpaid rent of \$50.00 for January 2014, \$600.00 for February 2014, and \$1,200.00 for March 2014. At the hearing, the landlord reduced the amount of the requested monetary award back to \$1,250.00, as he testified that the landlord had received a payment of \$600.00 towards this tenancy on March 17, 2014.

Analysis

Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, the regulations or the tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply.

Based on the undisputed sworn testimony and written evidence provided by the landlord, I am satisfied that the tenants continue to owe \$1,250.00 in rent to the landlords. I issue a monetary award for this amount to the landlord.

I allow the landlord to retain the tenants' security deposit plus applicable interest in partial satisfaction of the monetary award issued in this decision. No interest is payable over this period. As the landlord has been successful in this application, I also allow the landlord to recover the \$50.00 filing fee 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 January 2014 Rent	\$50.00
Unpaid February 2014 Rent	600.00
Unpaid March 2014 Rent (\$1,200.00 - \$600.00 = \$600.00)	600.00
Less Security Deposit	-600.00
Recovery of Filing Fee for this Application	50.00
Total Monetary Order	\$700.00

The landlord is provided with these Orders in the above terms and the tenants must be served with this Order as soon as possible. Should the tenant 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: April 04, 2014

Residential Tenancy Branch

