



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlords' Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the male landlord.

The landlords provided documentary evidence to confirm each tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on January 16, 2014 in accordance with Section 89. The landlords provided additional documentation confirming each tenant **received** the packages on January 18, 2014.

The landlord also provided documentary evidence that the tenants received his additional evidence package that had been sent by registered mail on April 14, 2014 and was **received** and signed for on April 15, 2014.

Based on this documentary evidence, I find that each tenant has been sufficiently served with the documents pursuant to the *Act*.

Prior to the hearing the landlords submitted evidence to the Residential Tenancy Branch on April 17, 2014. In that evidence the landlords included a Monetary Order Worksheet that increased their original claim from \$4,400.00 plus the filing fee to \$5,025.00 including the filing fee. However, the landlords did not submit an amended Application to show that they were increasing their claim. As such, I do not accept an amendment to increase the landlords' claim. I note the landlords remain at liberty to submit a new Application for Dispute Resolution for any additional claims in accordance with the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the landlords are entitled to a monetary order for unpaid rent; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Act*.

Background and Evidence

The landlord testified the tenancy began on January 1, 2012 as a 1 year fixed term tenancy that converted to a month to month tenancy beginning on January 1, 2013 for a monthly rent of \$1,100.00 due on the 1st of each month with a security deposit of \$550.00 paid. The tenancy ended after the tenants vacated the rental unit and the landlord changed the locks on the rental unit door on or before January 17, 2014.

The landlords submitted into evidence copies of email communication between the two parties begin on January 1, 2014 where the tenants indicate that they are starting to look for a new place to live. On January 17, 2014 the female tenant send another email to the landlords telling them that they would had removed their belongings and were no longer staying in the rental unit.

The landlord submits the tenants did not pay rent for the month of January 2014, nor did they pay any rent for the month of February 2014.

The landlord also submitted documentation confirming that as of July 4, 2013 (signed by the tenants on July 15, 2013 the tenants owed the landlord \$2,100.00 in rental arrears. The landlord provided copies of receipts for all payments made by the tenants after this document was signed. Based on those receipts the landlord submits the tenants failed to pay any of the arrears and in fact increased the arrears by \$100.00 during the period August 1, 2013 to December 1, 2013.

Analysis

Based on the undisputed testimony and evidence provided by the landlord I find the tenants failed to pay rent for the month of January 2014. I also find that the tenants failed to pay the acknowledged arrears of \$2,100.00 and increased these arrears to \$2,200.00.

Section 45(1) of the *Act* stipulates that a tenant may end a tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice and is the day before the day in the month that rent is payable under the tenancy agreement.

Section 45(3) states that if a landlord has failed to comply with a material term of the tenancy agreement and has not corrected the situation within a reasonable period after the tenant gives written notice of the failure, the tenant may end the tenancy effective on a date that is after the date the landlord receives the notice.

Based on the undisputed testimony and evidence before me I find the tenants failed to provide notice to end the tenancy in accordance with Section 45(1). Further, I find that there has been no evidence presented that the tenants ended the tenancy under Section 45(3).

As a result, I find the tenants are responsible for the payment of rent for the period that would comply with the earliest end date of the tenancy had the tenants complied with Section 45. I find the earliest date to end the tenancy based on the notice dated January 1, 2014 given by the tenants was February 28, 2014. Therefore the tenants are responsible for the payment of rent for February 2014.

Conclusion

I find the landlords are entitled to monetary compensation pursuant to Section 67 in the amount of **\$4,450.00** comprised of \$4,400.00 rent owed and the \$50.00 fee paid by the landlords for this application.

I order the landlords may deduct the security deposit and interest held in the amount of \$550.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$3,900.00**.

This order must be served on the tenants. If the tenants fail to comply with this order the landlords may file the order in the Provincial Court (Small Claims) and be enforced 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: May 01, 2014

Residential Tenancy Branch

