



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, 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; and
- authorization to recover her filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 1:42 p.m. in order to enable them to connect with this teleconference hearing scheduled for 1:30 p.m. 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. She testified that she sent both tenants copies of her dispute resolution hearing package by registered mail on May 8, 2014. She entered into written evidence a copy of the Canada Post Customer Receipt containing the Tracking Number for these mailings. She testified that both packages were recently returned to her as unclaimed. In accordance with sections 89(1) and 90 of the *Act*, I find that both tenants were deemed served with the landlord's dispute resolution hearing packages including copies of the landlord's application for dispute resolution on May 13, 2014, the fifth day after their mailing.

At the beginning of this hearing, I clarified the correct spelling of the tenants' names, which appears as noted above. The landlord had reversed the tenants' first names and surnames in the application for dispute resolution. She gave sworn testimony that she sent both hearing packages to the correctly named tenants. The landlord also testified that there was no need to obtain an Order of Possession as the tenants vacated the rental unit on or about February 1, 2014. The landlord's application for an Order of Possession is withdrawn accordingly.

Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent? Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

The landlord gave sworn testimony that this tenancy began on October 1, 2012 for an initial three-month fixed term, followed by a periodic tenancy thereafter. Monthly rent was set at \$1,300.00, payable in advance on the first of each month. Although the tenants paid a \$650.00 security deposit, the landlord returned this deposit shortly after this tenancy ended.

The landlord entered written evidence supported by her sworn oral testimony that the tenants ended their tenancy without paying \$1,000.00 of their rent. The male tenant had initially committed to pay the outstanding rent by way of a series of post-dated cheques extending from March 30, 2014 until May 30, 2014. However, the landlord subsequently received an email from him advising that she should not attempt to cash any of these cheques as he had been forced into bankruptcy. The landlord applied for a monetary award of \$1,000.00, plus the recovery of her \$50.00 filing fee.

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 landlord's undisputed sworn testimony and written evidence, I find that \$1,000.00 in outstanding rent remains owing from this tenancy. I issue a monetary award to the landlord to recover this unpaid rent. As the landlord has been successful in this application, I allow the landlord to recover her \$50.00 filing fee from the tenant(s).

Conclusion

I issue a monetary Order in the landlord's favour in the amount of \$1,050.00, which allows the landlord to recover unpaid rent and her filing fee for her application. The landlord is provided with these Orders in the above terms and the tenant 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. 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: June 25, 2014

Residential Tenancy Branch

