



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by one of the landlords.

The landlord testified 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 April 19, 2014 in accordance with Section 89. The landlord submits the packages were returned to the landlord as unclaimed. I find that failing to retrieve served documents from Canada Post on the part of the tenants is a deliberate attempt to avoid service.

Based on the testimony of the landlord, I find that each tenant has been sufficiently served with the documents pursuant to the *Act*.

The landlord testified that the tenants have vacated the rental unit as of May 13, 2014 and as such the landlord no longer requires an order of possession. I amend the landlords' Application to exclude the matter of possession.

Issue(s) to be Decided

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

Background and Evidence

The landlord submitted the following documentary evidence:

- A copy of a residential tenancy agreement which was signed by the parties on July 27, 2013 for a fixed term tenancy beginning on September 4, 2013 set to expire on June 30, 2014 for the monthly rent of \$1,200.00 due on the 1st of each month and a security deposit of \$600.00 was paid; and
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent that was issued on March 10, 2014 with no effective vacancy date provided due to \$1,350.00 in unpaid rent.

Documentary evidence filed by the landlord indicates the tenants failed to pay the full rent owed for the months of February and March 2014 and that the tenants were served the 10 Day Notice to End Tenancy for Unpaid Rent by posting it to the rental unit door on March 10, 2014.

The landlord submits the tenants did not pay the rent in full that was identified in the Notice. The landlord submits the tenants have also failed to pay rent for the months of April and May 2014. However, the landlord acknowledges the tenants did make 3 payments of \$200.00 each, since filing her Application for Dispute Resolution.

The landlord submits the outstanding arrears, including loss of revenue for June 2014, totals \$3,000.00. The landlord testified that the state of the condition of the rental unit has prohibited them from being able to re-rent the unit for the month of June 2014. She stated that the tenants have caused damage to the water system and had filled the freezer with garbage. The landlord submits the rental unit, as left by the tenants, is not currently suitable for occupation by another tenant.

Analysis

I accept the undisputed evidence and testimony of the landlord that the tenants have failed to pay rent in the amounts claimed. I also accept that due to the actions of the tenants the landlord is unable to re-rent the rental unit before the end of the fixed term of the tenancy.

As such, I find the tenants are responsible for the payment of outstanding rent as claimed and for the lost revenue suffered by the landlords.

Conclusion

I find the landlords are entitled to monetary compensation pursuant to Section 67 in the amount of **\$3,050.00** comprised of \$1,800.00 rent owed; \$1,200.00 lost revenue and the \$50.00 fee paid by the landlords for this application.

I order the landlords may deduct the security deposit held in the amount of \$600.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$2,450.00**.

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: June 04, 2014

Residential Tenancy Branch

