



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, MNSD, FF

Introduction

This hearing dealt with a landlord's application for an Order of Possession and Monetary Order for unpaid and/or loss of rent. The tenants did not appear at the hearing. The landlord testified that the hearing documents were sent to the tenants at the rental unit via registered mail sent on May 22, 2014. The landlord provided the registered mail tracking numbers as proof of service. The landlord testified the tenants vacated the rental unit on May 29, 2014 and the registered mail was returned to the landlord as unclaimed. Section 90 of the Act deems a person to have been served with documents five days after mailing even if the person refuses to accept or pick up their mail. Based upon the evidence presented to me, I found the tenants deemed to have been served with the landlord's Application for Dispute Resolution and I continued to hear from the landlord without the tenants present.

As the tenants have vacated the rental unit and the landlord confirmed that she has regained possession of the rental unit, I found it unnecessary to further consider the landlord's request for an Order of Possession and I do not provide one with this decision.

The landlord requested her monetary claim be reduced to reflect the re-rental of the rental unit as of June 15, 2014 and retention of the security deposit in partial satisfaction of the unpaid rent. As these requests reduce the monetary order that would be provided to the landlord I found them to be non-prejudicial and I permitted the amendments.

Issue(s) to be Decided

1. Has the landlord established an entitlement to compensation for unpaid and/or loss of rent in the amount claimed, as amended?
2. Is the landlord authorized to retain the security deposit?

Background and Evidence

The fixed term tenancy commenced June 15, 2013 and was set to expire June 15, 2014. The tenants paid a security deposit of \$443.00. The tenants were required to pay rent of \$885.00 on the 1st day of every month. The tenants failed to pay rent for April 2014 and May 2014 and on May 10, 2014 the landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) indicating rent of \$1,870.00 was outstanding and a stated effective date of May 20, 2014. The landlord posted the 10 Day Notice on the door and sent it to the tenants via registered mail on May 10, 2014. The tenants vacated the rental unit on May 29, 2014 and did not pay the outstanding rent. The landlord re-rented the unit starting June 15, 2014.

The landlord is seeking to recover unpaid rent for April and May 2014 and loss of rent for the first half of June 2014. The landlord is seeking to retain the security deposit in partial satisfaction of the unpaid rent.

The landlord's documentary evidence included copies of the tenancy agreement and 10 Day Notice.

Analysis

Upon consideration of the undisputed evidence before me, I provide the following findings and reasons.

Under the Act, a tenant is required to pay rent when due under the terms of their tenancy agreement. I find the tenants breached their tenancy agreement and Act by failing to pay rent that was due to the landlord. I grant the landlord's request for unpaid rent for the months of April and May 2014. I further award the landlord loss of rent for the first half of June 2014 since the tenants did not end the tenancy in a manner that complies with the Act.

In addition, I award the landlord recovery of the \$50.00 filing fee paid for this Application for Dispute Resolution. I also authorize the landlord to retain the security deposit in partial satisfaction of the unpaid rent.

In light of the above, I provide the landlord with a Monetary Order calculated as follows:

Unpaid Rent: April and May 2014 (\$885.00 x 2)	\$ 1,770.00
Loss of Rent: June 1 – 14, 2014	442.50
Filing fee	50.00
Less: security deposit	<u>(443.00)</u>
Monetary Order	\$ 1,819.50

The Monetary Order must be served upon the tenants and may be filed in Provincial Court (Small Claims) to enforce as an Order of the court.

Conclusion

The landlord has been authorized to retain the tenants' security deposit and has been provided a Monetary Order for the balance of \$1,819.50 to serve and enforce.

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: July 09, 2014

Residential Tenancy Branch

