



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Century Club Suites
and [tenant name suppressed to protect privacy]

DECISION

Dispute codes OP MNR MNSD FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. The hearing was conducted by conference call. The landlord's representative called in and participated in the hearing. The tenants did not appear although they were served with the Application for Dispute Resolution and Notice of Hearing by registered mail. The landlord's representative advised at the hearing that the tenants have just vacated the rental unit and an order for possession is no longer required. The landlord's application for an order for possession is therefore dismissed.

Issues

Is the landlord entitled to a monetary order?

Is the landlord entitled to an order allowing retention of the security deposit?

Background and Evidence

This tenancy began on April 1, 2013 for a fixed term and thereafter month to month. The rent is \$1,250.00, due in advance on the first day of each month. The landlord also levied a \$20.00 monthly parking charge, for a total of \$1,270.00. The tenants paid a security deposit of \$625.00 at the start of the tenancy. The tenants did not pay rent for July when it was due. On July 3, 2014 the landlord served the tenants with a Notice to End Tenancy for non-payment of rent by handing a copy to the tenants. The Notice was for \$1,270.00 of rent for July and \$90.00 in arrears due from June. The tenants did not file an application to dispute the Notice to End Tenancy. The tenants made a payment of \$600.00 after the Notice was given and a further \$570.00 payment on August 29, 2014, but made no payments thereafter.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. Since the tenants have recently vacated an order for possession is not required.

Conclusion

Monetary Order and Security Deposit – As set out on the Notice to End Tenancy the landlord claimed \$90.00 in arrears from June, \$1,270.00 in rent for July plus a \$20.00 late fee for July for a total of \$1,380.00. There is also rent owed for August and September in the amount of \$1,270.00 for each month, plus \$40.00 in late fees for a total amount of \$3,960.00. After deducting the two payments of \$600.00 and \$570.00, I find that the landlord has established a total monetary claim of \$2,790.00 for the outstanding rent, including rent for September. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$2,840.00. I order that the landlord retain the deposit and interest of \$625.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$2,215.00. This order may be filed in the Small Claims Court and 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: September 25, 2014

Residential Tenancy Branch

