



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPRIET
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNDC, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord for an Order of Possession and a monetary order for unpaid rent or utilities; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and to recover the filing fee from the tenants for the cost of the application.

An agent for the landlord company attended the hearing, gave affirmed testimony and provided evidentiary material prior to the commencement of the hearing. However, despite being served with the Landlord's Application for Dispute Resolution and notice of this hearing by registered mail on February 23, 2015, no one for the tenants attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and the only participant who joined the call was the landlord's agent. The landlord's agent testified that the tenants were served on that date and in that manner and has provided a copy of a Canada Post cash register receipt bearing that date and a Registered Domestic Customer Receipt from Canada Post addressed to one of the 2 named tenants, "Or" the other named tenant.

During the course of the hearing, the landlord's agent withdrew the application for an Order of Possession.

All evidence and the testimony of the landlord's agent has been reviewed and is considered in this Decision.

Issue(s) to be Decided

- Has the landlord established a monetary claim as against the tenants for unpaid rent?
- Has the landlord established a monetary claim as against the tenants for money owed or compensation for damage or loss under the *Act*, regulation or tenancy

agreement, and more specifically for late rent payments, parking and N.S.F. fees?

Background and Evidence

The landlord's agent testified that this tenancy began on September 1, 2012 as a fixed term tenancy for one year and then reverting to a month-to-month tenancy. The tenants vacated the rental unit, but the landlord's agent is not sure when. Rent in the amount of \$1,007.79 per month was payable in advance on the 1st day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenants in the amount of \$475.00 which is still held in trust by the landlord, and no pet damage deposit was collected. A copy of the tenancy agreement has been provided.

The landlord's agent further testified that rent has been paid by electronic automatic payments and the tenants fell into arrears of rent totalling \$1,225.32. The landlord served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. A copy of the notice has been provided and it is dated February 6, 2015 and contains an expected date of vacancy of February 19, 2015 for \$1,027.79 of unpaid rent that was due on February 1, 2015. The landlord's agents went into the rental unit on February 26, 2015 and it had been vacated by the tenants. The tenants did not pay the outstanding rent and the rental unit was re-rented commencing March 6, 2015. No rent was paid by the tenants for February or March.

The landlord also claims \$20.00 for parking for the month of February, 2015. Also claimed are late fees for the months of February and March, 2015 totalling \$50.00, \$97.53 for the portion of March that the rental unit was vacant, and N.S.F. fees of \$50.00 for both months because the electronic transfers were returned. The tenants have not provided the landlord with a forwarding address and were served with the application and notice of this hearing at the address of the rental unit prior to vacating.

Analysis

I have reviewed the evidentiary material provided by the landlord, and I am satisfied that the tenants owe \$1,007.79 for unpaid rent for the month of February, 2015. I am also satisfied that the landlord is entitled to recovery of loss of revenue for March 1 to March 5, 2015 on a per diem basis totalling \$162.55.

The *Residential Tenancy Act* permits a landlord to claim late fees to a maximum of \$25.00 if an agreement to that effect is contained in the tenancy agreement, and I find that it is in this case. The *Act* also permits a landlord to claim an amount charged by the landlord's financial institution for return of N.S.F. payments. The landlord has not

provided any evidence of the actual fee charged by the financial institution, and I decline to order that the landlord recover those fees from the tenants. I find that the landlord is entitled to \$50.00 for late fees for the months of February and March, 2015.

The landlord also claims parking fees in the amount of \$20.00 for the month of February, 2015 and I have reviewed the tenancy agreement. There is no mention of any fee for parking, and the agreement specifically states \$0.00 for parking. I decline to order \$20.00 for parking.

The landlord has not made a claim against the security deposit and therefore the tenants have not been put on notice that the landlord intends to apply to keep it. The landlord's agent testified that the tenants have not provided a forwarding address. I leave it to the parties to deal with the security deposit in accordance with the *Residential Tenancy Act*.

Since the landlord has been successful with the application, the landlord is entitled to recovery of the \$50.00 filing fee.

Conclusion

For the reasons set out above, the landlord's application for an Order of Possession is hereby dismissed as withdrawn.

I hereby grant a monetary order in favour of the landlord as against the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,270.34.

This order is final and binding and may be enforced.

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: March 24, 2015

Residential Tenancy Branch

