



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, 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;
- authorization to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 9:18 a.m. in order to enable them to connect with this teleconference hearing scheduled for 9:00 a.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.

The landlord testified that he posted a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenants' door on April 12, 2015. In accordance with sections 88 and 90 of the *Act*, I find that the tenants were deemed served with this Notice on April 15, 2015, the third day after its posting.

The landlord also testified that he sent both tenants copies of his dispute resolution hearing package by registered mail on April 23, 2015. The landlord said that at the time he sent the tenants' the dispute resolution hearing package containing notice of this hearing, the tenants were still residing at the rental unit. He testified that his hearing packages were returned to him by Canada Post as unclaimed by the tenants. He said that he has no forwarding address for the tenants. In accordance with sections 89 and 90 of the *Act*, the tenants were deemed served with the landlord's dispute resolution hearing package on April 28, 2015, five days after this registered mailing.

The landlord testified that the tenants vacated the rental unit on April 25, 2015, and he took possession of the rental unit on April 28, 2015, after he realized that they had left. Since he now has possession of the rental unit, the landlord withdrew his application for the issuance of an Order of Possession. During the hearing, the landlord testified that he rented these premises to other tenants on or about May 27th for a tenancy to take effect on June 1, 2015. For this

reason, he initially reduced the amount of his requested monetary award from \$3,900.00 to \$2,600.00, representing unpaid rent for April 2015 and May 2015. During the course of the hearing, the landlord further reduced his application to \$650.00, the amount of the tenant's security deposit.

Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent? Is the landlord entitled to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary award requested?

Background and Evidence

The landlord testified that he entered into this tenancy agreement with the tenants, but the tenants did not sign the tenancy agreement he provided to them. He said that the tenants took occupancy for January 1, 2015, on the basis of an unsigned periodic tenancy agreement. Monthly rent was set at \$1,300.00 payable on the first of each month. He continues to hold the tenants' \$650.00 security deposit paid on or about December 27, 2014.

The landlord's original application for a monetary award of \$3,900.00, included unpaid rent for April 2015, and his anticipated loss of rent for May and June 2015. He gave sworn testimony that he did not receive any payments from the tenants after he issued the 10 Day Notice.

Analysis

Based on the landlord's undisputed sworn testimony, I find that the landlord has established his entitlement to a monetary award totalling \$2,600.00 for the months of April and May 2015, plus the recovery of his \$50.00 filing fee. At the landlord's request, I limit the amount of the monetary award issued in the landlord's favour to \$650.00, the amount of the security deposit he continues to hold from this tenancy.

Conclusion

I order the landlord to retain the tenants' \$650.00 plus applicable interest to compensate the landlord for his loss of rent arising out of this tenancy. No interest is payable over this period. The remaining portions of the landlord's application are withdrawn.

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 05, 2015

Residential Tenancy Branch

