



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 was convened by way of conference call in response to a Landlord's Application for Dispute Resolution (the "Application") for an Order of Possession and a Monetary Order for unpaid rent. The Landlord also applied to keep the Tenants' security deposit and to recover the filing fee from the Tenants.

An agent for the Landlord (the "Landlord") and the male Tenant appeared for the hearing and provided affirmed testimony. The Landlord testified that he had served a copy of the Application and the Notice of Hearing documents to the Tenant at the forwarding address the Tenant provided at the end of the tenancy. The Tenant confirmed receipt of the Landlord's documents. Therefore, I find the Tenants were served with the required documents pursuant to Section 89 of the *Residential Tenancy Act* (the "Act").

At the start of the hearing, the parties confirmed that the Tenant had moved out at some point in April 2015 in accordance with a notice to end tenancy. As a result, I dismissed the Landlord's Application for an Order of Possession.

The hearing continued to hear the Landlord's monetary claim. The hearing process was explained and both parties were given a full opportunity to present evidence, make submissions to me and to cross examine the other party on the evidence provided.

Issue(s) to be Decided

- Is the Landlord entitled to a Monetary Order for unpaid rent and utilities?
- Is the Landlord entitled to keep the Tenants' security deposit in partial satisfaction of the monetary claim for unpaid rent and utilities?

Background and Evidence

The parties agreed that this fixed term tenancy started on March 1, 2014 and expired on February 28, 2014 after which it continued on a month to month basis. The Tenants paid \$797.50 as a security deposit to the Landlord on February 14, 2014 which the Landlord still retains. Rent under the agreement was established in the amount of \$1,595.00 payable on the first day of each month.

The Landlord testified that the Tenants failed to pay rent and accumulated utilities on April 1, 2015. As a result, the Landlord posted a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") on the Tenants' door on April 4, 2015. The Notice was provided into written evidence.

The Tenants moved out of the rental suite in accordance with the Notice. As a result, the Landlord made an Application on April 24, 2015 claiming unpaid rent in the amount of \$1,630.00 and unpaid utilities in the amount of \$982.60. The total amount disclosed on the Landlord's Application is **\$2,612.60**. The Tenant acknowledged receipt of the Notice and did not dispute the Landlord's testimony in relation to the amount of unpaid rent and utilities.

The Landlord testified that the Tenants also owed monies for damage to the unit as well as other utilities. However, the Tenant disputed this. As a result, I informed the Landlord that he was at liberty to make a claim for amounts which had not been included in this Application after putting the Tenants on notice for further losses and presenting evidence in relation to them.

Analysis

Section 26(1) of the Act requires a tenant to pay rent when it is due under a tenancy agreement. I accept the undisputed oral and written evidence of the Landlord that the Tenants have failed to pay rent and utilities for this tenancy in the amount of **\$2,612.60** claimed in the Application. Accordingly, I award this amount of the Landlord.

As the Landlord has been successful in his monetary claim, I find the Landlord is also entitled to recover the **\$50.00** Application filing fee pursuant to Section 72(1) of the Act. Therefore, the total amount payable by the Tenants to the Landlord is **\$2,662.60**.

As the Landlord already holds the Tenants' **\$797.50** security deposit, I order the Landlord to retain this amount in partial satisfaction of the claim awarded, pursuant to Section 72(2) (b) of the Act. As a result, the Landlord is issued with a Monetary Order for the outstanding balance of rent claimed in the amount of **\$1,865.10**. This order must be served on the Tenant and may then be enforced in the Provincial Court (Small

Claims) as an order of that court. Copies of the order for service and enforcement are attached to the Landlord's copy of this decision.

Conclusion

The Tenants have moved out of the rental suite. Therefore, the Landlord's Application for an Order of Possession is dismissed.

The Tenants have breached the Act by failing to pay rent and utilities under the tenancy agreement. Therefore, the Landlord may keep the Tenants' security deposit and is issued with a Monetary Order for the remaining balance of \$1,865.10.

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 03, 2015

Residential Tenancy Branch

