



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding SUTTON GROUP MEDALLION REALTY LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OPR MNR FF

### Introduction

This hearing was convened to hear matters pertaining to an Application for Dispute Resolution filed by the Landlord on December 27, 2015. The Landlord filed seeking an Order of Possession and a Monetary Order for unpaid rent or utilities and to recover the cost of the filing fee.

At the outset of the hearing the Landlord submitted that they were no longer seeking an Order of Possession as the property was sold. Accordingly, the Landlord withdrew their request for an Order of Possession.

The hearing was conducted via teleconference and was attended by the Landlord. No one was in attendance on behalf of the respondent Tenants. The Landlord provided affirmed testimony that the Tenant S.T. was personally served copies of the application and Notice of hearing documents on December 30, 2015. The Landlord submitted that in addition to the personal service to S.T. , each Tenant was served notice of this application and this hearing by registered mail on January 2, 2016.

Section 90(a) of the *Residential Tenancy Act* (the “Act”) states that a document served by mail is deemed to have been received five days after it is mailed.

Based on the undisputed evidence of the Landlord, I find that the Tenant S.T. was sufficiently served notice of this proceeding on December 30, 2015 the day he was personally served. Furthermore, I find that the Tenant A.D. was deemed served notice of this hearing on January 7, 2016, five days after it was mailed, pursuant to section 90 of the *Act*. I continued with the hearing, in absence of the Tenants, to hear the undisputed evidence of the Landlord.

### Issue(s) to be Decided

Has the Landlord proven entitlement to monetary compensation?

### Background and Evidence

The parties entered into a fixed term tenancy agreement that began on April 1, 2015 and was set to end on March 31, 2016, after which the tenancy may continue on

another fixed term or month to month. Rent of \$1,250.00 was payable on the first of each month. On March 30, 2015 the Tenants paid \$625.00 as the security deposit and \$300.00 as the pet deposit.

The Landlord stated the rental property was sold and title transferred to the new owners on November 30, 2015. The Landlord submitted a copy of a cheque dated 2015/12/28 for \$925.00. She submitted that the cheque was evidence that the previous owner transferred the Tenant's \$625.00 security deposit and the \$300.00 pet deposit to the new owners.

The Landlord testified that the Tenants paid only a portion of the October 2015 rent leaving a balance owed of \$625.00. When the Tenants failed to pay that balance owed and the \$1,250.00 rent that was due on November 1, 2015 the Landlord personally served the Tenant, S.T. a 10 Day Notice for unpaid rent on November 3, 2015.

The 10 Day Notice listed \$1,875.00 which was due on November 1, 2015. The effective date written on the Notice was November 13, 2015. The Tenants made one payment towards the rental arrears of \$500.00 on November 11, 2015. The Landlord now seeks a monetary order for the balance owed of \$1,375.00

### Analysis

Given the evidence before me, in the absence of any evidence from the Tenants who did not appear despite being properly served with notice of this proceeding, I accept the version of events as discussed by the Landlord and corroborated by their documentary evidence.

**Section 7** of the Act provides as follows in respect to claims for monetary losses and for damages made herein:

- 7(1) If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.
- 7(2) A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

Section 67 of the Residential Tenancy Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

Section 26 of the Act stipulates that a tenant must pay rent in accordance with the tenancy agreement.

I accept the undisputed evidence of the Landlord that the Tenants failed to pay their rent in accordance with the tenancy agreement which is in breach of section 26 of the *Act*. Accordingly, I grant the Landlords application for October and November 2015 unpaid rent in the amount of **\$1,375.00**.

Section 72(1) of the Act stipulates that the director may order payment or repayment of a fee under section 59 (2) (c) [*starting proceedings*] or 79 (3) (b) [*application for review of director's decision*] by one party to a dispute resolution proceeding to another party or to the director.

The Landlord has succeeded with their application; therefore, I award recovery of the **\$50.00** filing fee, pursuant to section 72(1) of the Act.

The Landlord has been issued a Monetary Order in the amount of **\$1,425.00** (\$1,375.00 + \$50.00) which must be served upon the Tenants and may be enforced through Small Claims Court.

#### Conclusion

The Landlord was successful with their application and was awarded monetary compensation in the amount of \$1,425.00.

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: February 12, 2016

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Residential Tenancy Branch

