



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 the landlord's application for an Order of Possession for unpaid rent and utilities; for a Monetary Order for unpaid rent or utilities; for an Order permitting the landlord to keep all or part of the tenants' security deposit; and to recover the filing fee from the tenants for the cost of this application.

At the outset of the hearing the landlord advised that the tenants are no longer residing in the rental unit, and therefore, the landlord withdraws the application for an Order of Possession.

Service of the hearing documents, by the landlord to the tenants, was done in accordance with section 89 of the *Act*, served in person on February 05, 2016.

The landlords appeared, gave sworn testimony, were provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenants, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Are the landlords entitled to a Monetary Order for unpaid rent and utilities?
- Are the landlords entitled to keep the security deposit?

Background and Evidence

The landlords testified that this tenancy started on November 01, 2015 for a month to month. Rent for this unit was \$890.00 per month. Rent was due on the first day of each month. The tenants paid a security deposit of \$445.00 on November 01, 2015.

The landlords testified that the tenants failed to pay rent for January, 2016 on the day it was due. The landlords served the tenants with a 10 Day Notice to End Tenancy for unpaid rent or utilities (the Notice) on January 26, 2016 by posting it to the tenants' door. The Notice informed the tenants that rent is owed for January, 2016 of \$890.00. The Notice also informed the tenants that the tenants had five days to either pay the rent or dispute the Notice or the tenancy will end on February 04, 2016. The landlords testified that the tenants did not pay rent for January or February, 2016 and vacated the rental unit on February 15, 2016. The landlords were unable to re-rent the unit for the remainder of February or March, 2016.

The landlords have applied to recover a loss of rental income for January and February, 2016 of \$1,780.00 and for an order to offset the security deposit of \$445.00, held in trust, against the unpaid rent.

Analysis

The tenants did not appear at the hearing to dispute the landlords' claims, despite having been served a Notice of the hearing; therefore, in the absence of any evidence from the tenants, I have considered the landlords' documentary evidence and sworn testimony before me. Section 26 of the *Act* states:

A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

I am satisfied from the evidence before me that the tenants failed to pay rent for January and February, 2016. Consequently, I find the landlords have established a claim to recover unpaid rent of **\$1,780.00**.

I Order the landlords to keep the tenants' security deposit of **\$445.00** pursuant to s. 38(4)(b) of the *Act*. This amount will be offset against the unpaid rent.

As the landlords have been successful with their claim I find the landlords are entitled to recover the **\$100.00** filing fee from the tenants pursuant to section 72(1) of the *Act*. The landlords will receive a Monetary Order pursuant to s. 67 and 72(1) of the *Act* for the following amount:

Unpaid rent for January and February	\$1,780.00
Less security deposit	(-\$445.00)
Filing fee	\$50.00
Total amount due to the landlord	\$1,435.00

Conclusion

I HEREBY FIND in favor of the landlords' monetary claim. A copy of the landlords' decision will be accompanied by a Monetary Order for **\$1,435.00**. The Order must be served on the tenants; if the tenants fail to comply with the Order, the Order is enforceable through the Provincial Court 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: March 21, 2016

Residential Tenancy Branch

