



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DAVID BURR LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, MND, FF

Introduction

On May 20, 2016, the Landlord submitted an Application for Dispute Resolution for an order of possession; for a monetary order for unpaid rent or utilities; to keep the security deposit; and to recover the cost of the filing fee.

The Landlord's agent ("the Landlord") attended the teleconference hearing; however, the Tenants did not. The Landlord provided affirmed testimony that the Notice of hearing was sent to both Tenants by registered mail. The Landlord provided the Canada Post tracking numbers as proof of service and testified that the mail was picked up on May 26, 2016. I find that the Tenants were duly served with the notice of the hearing in accordance with the Act.

The Landlord was provided the opportunity to present his evidence orally and in written and documentary form, and to make submissions at the hearing.

Preliminary and Procedural Issues

The Landlord testified that the Tenants vacated the rental unit on May 31, 2016, and that the Landlord does not require an order of possession.

Issues to be Decided

Is the Landlord entitled to a monetary order to recover unpaid rent?
Is the Landlord entitled to keep the security deposit towards unpaid rent?
Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

The Landlord testified that the tenancy began on March 15, 2015, as a month to month tenancy. Rent in the amount of \$950.00 is payable on the first of each month. The Tenants paid the Landlord a security deposit of \$475.00.

The Landlord testified that the Tenants did not pay any rent for the months of May 2016, and June 2016.

The Landlord testified that the Tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated May 9, 2016, ("the Notice") on May 9, 2016. The Landlord testified that the Tenant was served with the Notice by the Landlord's agent C.C. in person by hand.

The Notice states that the Tenants have failed to pay rent in the amount of \$950.00 which was due on May 1, 2016. The Notice informed the Tenants that the Notice would be cancelled if the rent was paid within five days. The Notice also explains the Tenants had five days to dispute the Notice.

There is no evidence before me that that the Tenants made an application to dispute the Notice.

The Landlord testified that the Tenants have not paid any rent since the Notice was issued. The Landlord testified that the Tenants did not give Notice to End the tenancy and the rental unit is still vacant. The Landlord stated he has suffered a loss of rent for June 2016. The Landlord seeks to recover unpaid rent for May 2016, and June 2016, in the amount of \$1,900.00

Analysis

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I find that the Tenants have not paid the outstanding rent within five days of receiving the Notice, and did not apply to dispute the Notice, and are therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice.

I find that the Tenants owe the Landlord \$1,900.00 for unpaid rent for the months of May 2016, and June 2016.

I order that the Landlord can keep the security deposit in the amount of \$475.00 in partial satisfaction of the claim for unpaid rent.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenants to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I find that the Landlord has established a total monetary claim of \$2,000.00 comprised of \$1,900.00 in unpaid rent for the above mentioned dates and the \$100.00 fee paid by the Landlord for this hearing. After offsetting the security deposit of \$475.00 towards the claim of \$2,000.00, I find that the Landlord is entitled to a monetary order in the

amount of \$1,525.00. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenants are cautioned that costs of such enforcement are recoverable from the Tenants.

Conclusion

The Tenants failed to pay the rent and did not file to dispute the Notice. The Tenants are presumed under the law to have accepted that the tenancy ended on the effective date of the Notice.

I order that the Landlord can keep the security deposit in the amount of \$475.00 in partial satisfaction of the claim.

I grant the Landlord a monetary order for the unpaid rent and the cost of the filing fee in the amount of \$1,525.00.

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: June 22, 2016

Residential Tenancy Branch