



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 two tenants, "tenant DM" and "tenant JT" did not attend this hearing. The landlord attended the hearing and was given a full opportunity to be heard, to present testimony, to make submissions and to call witnesses.

The landlord testified that the tenants were personally served with the landlord's application for dispute resolution hearing package (the "Application") on May 21, 2016, at the rental unit where the tenants were residing. In accordance with sections 89 and 90 of the *Act*, I find that the tenants were served with the landlord's Application on May 21, 2016, the day it was served.

At the outset of the hearing the landlord testified that the tenants vacated the rental unit on May 26, 2016. As the landlord no longer requires an order of possession this portion of the landlords claim is dismissed.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

Is the landlord authorized to retain all or a portion of the tenants' security deposit in partial satisfaction of the monetary order requested?

Is the landlord authorized to recover the filing fee for this application from the tenants?

Background and Evidence

The landlord testified that this tenancy began on February 10, 2016 on a month-to-month basis. Rent in the amount of \$1,000.00 was payable on the first of each month. The tenants remitted \$500.00 for the security deposit at the start of the tenancy.

The landlord seeks a monetary order of \$1,000.00 for unpaid rent for May 2016. The landlord is also seeking to recover the \$100.00 filing fee for this Application from the tenant.

Analysis

Section 26 of the *Act* requires the tenant to pay rent on the date indicated in the tenancy agreement, which is the first day of each month. Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, *Residential Tenancy Regulation* (the "*Regulation*") or tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply.

I find that the landlord proved that the current rent for this unit is \$1,000.00. I find the landlord provided undisputed evidence that the tenants failed to pay full rent for May 2016. Therefore, I find that the landlord is entitled to \$1,000.00 in rent.

In accordance with the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the security deposit in the total amount of \$500.00 in partial satisfaction of the monetary award and I grant an order for the balance due \$500.00. As the landlord was successful in this Application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for the Application, for a total award of \$600.00.

Conclusion

The landlord's application for an order of possession is dismissed.

I issue a monetary order in the landlord's favour in the amount of \$600.00 against the tenants.

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 21, 2016

Residential Tenancy Branch