



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, for monetary order for unpaid rent, and to recover the filing fee.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Preliminary matter

The tenants vacated the property on June 12, 2016. Therefore, the landlord no longer requires an order of possession.

The landlord indicated at the outset of the hearing the amendment to an application for dispute resolution was not served upon the tenants.

As the amendment was not served on the tenants and the principles of natural justice require that a person be informed and given particulars of the claim against them. I decline to hear the issues that were added to their claim. Therefore, only the original issues will be considered at today's hearing.

Issue to be Decided

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

Background and Evidence

The tenancy began on January 15, 2016. Rent in the amount of \$1,250.00 was payable on the first of each month. A security deposit of \$625.00 and a pet damage deposit of \$625.00 were paid by the tenants.

The landlord testified that the tenants did not pay rent for June 2016, and were served with a 10 Day Notice to End Tenancy for Unpaid Rent.

The tenants testified that they did not pay rent for June 2016, as they needed that money for a security deposit elsewhere as they were already served with a 1 Month Notice to End Tenancy for Cause.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlord the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Section 26 of the Residential Tenancy Act states:

26 (1) 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.

The evidence of the both parties was the tenants did not pay any rent for June 2016. I find the tenants have breached section 26 of the Act when they failed to pay rent when due under the tenancy agreement and this has caused losses to the landlord.

Therefore, I find the landlord is entitled to recover unpaid rent in the amount of **\$1,250.00**

I find that the landlord has established a total monetary claim of **\$1,350.00** comprised of the above described amount and the \$100.00 fee paid for this application. I grant the landlord an order under section 67 Act.

This 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 rent. The landlord is granted a monetary order in the above amount.

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: July 12, 2016

Residential Tenancy Branch