



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, MNSD, FF

Introduction

This hearing dealt with the landlords' 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 and for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's 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 tenant pursuant to section 72.

The tenant did not participate in the conference call hearing, which lasted approximately 15 minutes. The landlords attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlords testified that on March 17, 2017 they forwarded the landlords' application for dispute resolution hearing package via registered mail to the tenant. The landlords provided a Canada Post tracking number as proof of service. Based on the testimony of the landlords and in accordance with sections 89 and 90 of the *Act*, I find that the tenant has been deemed served with the hearing package on March 22, 2016, the fifth day after its registered mailing.

At the outset of the hearing the landlords testified that the tenant vacated the rental unit by April 2, 2017. Consequently, the landlords are no longer seeking an order of possession and this portion of their application is dismissed without leave to reapply.

Issue(s) to be Decided

Are the landlords entitled to a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement?

Are the landlords authorized to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested?

Are the landlords authorized to recover the filing fee for this application from the tenant?

Background and Evidence

As per the submitted tenancy agreement and testimony of the landlords, the tenancy began on April 1, 2016 on a fixed term until March 31, 2017 at which time the tenancy was set to continue on a month-to-month basis. Rent in the amount of \$1,200.00 was payable on the first of each month. The tenant remitted a security deposit in the amount of \$600.00 at the start of the tenancy, which the landlords still retain in trust.

The landlords seek a monetary order of \$3,600.00 for unpaid rent from January 2017 to March 2017. The landlords claimed that the tenant has not paid any rent for the above three months. The landlords also seek a monetary order for the loss of April rent in the amount of \$1,200.00.

The landlords testified to the condition of the rental unit following the tenant's vacancy. The landlords testified that the rental unit was left dirty and in need of some miscellaneous repairs. The landlords testified they were seeking \$600.00 in damages to cover the anticipated costs of the repairs. The landlords acknowledged that the work has not been conducted to date.

The landlords seek to recovery \$10.00 for registered mail expense and \$100.00 for vehicle expense incurred as a result of attending the unit and serving the tenant various notices.

The landlords are 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*, *Regulation* or tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply.

I find that the landlords proved that the current rent for this unit is \$1,200.00. I find the landlords provided undisputed evidence that the tenant failed to pay full rent from January 2017 to March 2017. I also find that the tenant should reasonably have known that the landlords would suffer the loss of April rent in the amount of \$1,200.00 if he did

not leave the unit in a rentable condition. Therefore, I find that the landlords are entitled to \$4,800.00 in rent.

Although the landlords testified to the condition of the rental unit and the estimated cost in repairing it, I find the claim to damages premature as the tenant had not vacated the rental unit at the time the application was made. The landlords have not presented evidence in the form of invoices or work orders. For these reasons I dismiss the landlords' application for compensation for damage with leave to reapply.

I dismiss the landlords' claim of \$10.00 for registered mail expense and \$100.00 for vehicle expense incurred as a result of attending the unit and serving the tenant various notices, as the only hearing-related costs recoverable under section 72 of the *Act* are for filing fees.

As the landlords were partially successful in this application, I find that the landlords are entitled to recover \$50.00 of the \$100.00 filing fee paid for the application for a total award of \$4,850.00.

In accordance with the offsetting provisions of section 72 of the *Act*, I allow the landlords to retain the security deposit in the total amount of \$600.00 in partial satisfaction of the monetary award and I grant an order for the balance due \$4,250.00.

Conclusion

I issue a monetary order in the landlords' favour in the amount of \$4,250.00.

The landlords claim for an order of possession, registered mail expense and vehicle expense are dismissed without leave to reapply.

The landlords' claim for compensation for damage is dismissed with leave to reapply.

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: April 13, 2017

Residential Tenancy Branch