



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPR, MNR, MNSD,

Introduction

This hearing was convened in response to applications by the landlord and the tenants.

The landlord's application is seeking orders as follows:

1. For an order of possession;
2. For a monetary order for unpaid rent;
3. To keep all or part of the security deposit; and
4. To recover the cost of filing the application.

The tenants' application is seeking orders as follows:

1. To cancel a notice to end tenancy which was received on March 12, 2017.

Procedural matter

Tenant's application

This matter was set for hearing by telephone conference call at 9:30 A.M on April 19, 2017. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the landlord. Therefore, as the tenants did not attend the hearing by 9:40 A.M., and the landlord appeared and was ready to proceed, I dismiss the tenants' application without leave to reapply.

Landlord's application

The landlord attended the hearing. As the tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were served in person on March 23, 2017.

The landlord stated that at the outset of the hearing that the tenants have vacated the premises and an order of possession is not required.

Issues to be Decided

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

Is the landlord entitled to keep all or part of the security deposit?

Background and Evidence

The landlord claims as follows:

a.	Unpaid rent	\$ 850.00
b.	Unpaid utilities	\$ 618.43
c.	Filing fee	\$ 100.00
	Total claimed	\$1,568.43

The landlord testified that the tenants failed to pay all rent for March 2017, and their portion of utilities. The landlord stated that they seek a monetary order; however, they have an arrangement with the tenants for the balance due.

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 has 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.

I accept the undisputed evidence of the landlord that the tenants failed to pay all rent for March 2017, and utilities owed. I find the tenants breach the Act, and the tenancy agreement. Therefore, I find the landlord is entitled to recover the amount of **\$1,468.43**.

I find that the landlord has established a total monetary claim of **\$1,568.43** comprised of the above described amount and the \$100.00 fee paid for this application.

I order that the landlord retain the security deposit of **\$825.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 of the Act for the balance due of **\$743.43**.

Conclusion

The landlord is granted a monetary order and may keep the security deposit in partial satisfaction of the claim and the landlord is granted a formal order for the balance due.

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 24, 2017

Residential Tenancy Branch