



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MND, MNDC, MNR, OPC

Introduction

This is an application brought by the Landlord(s) requesting an Order of Possession based on Notice to End Tenancy that was given for cause, requesting a monetary order, and requesting recovery of their filing fee.

The applicant testified that the respondent was served with notice of the hearing by registered mail that was mailed on April 10, 2017; however the respondent did not join the conference call that was set up for the hearing.

Pursuant to section 90 of the Residential Tenancy Act, documents sent by registered mail are deemed served five days after mailing and therefore it is my finding that the respondent has been properly served with notice of the hearing and I therefore conducted the hearing in the respondent's absence.

All testimony was taken under affirmation.

Issue(s) to be Decided

At the beginning of the conference call the applicant stated that the tenant has vacated the rental unit, and they have possession, and therefore an order of possession is no longer required.

The issue I dealt with today therefore is whether or not the applicants have established monetary claim against the respondent, and if so in what amount.

Background and Evidence

The applicant testified that this tenancy began on July 1, 2016 for a fixed term expiring June 30, 2017, and with a monthly rent of \$1495.00.

The applicant further testified that, in the tenancy agreement, the tenant was required to pay 45% of utilities.

The applicant further testified that the tenant failed to pay the utilities, and at the end of the tenancy, the total utilities outstanding was \$786.68.

The applicant further testified that, in the tenancy agreement, the tenant was required to pay an NSF fee of \$25.00, and a late fee of \$25.00, and therefore since the March rent cheque was NSF, and the rent was late, they are requesting those fees.

The applicant further testified that the tenant failed to pay the April 2017 rent of \$1495.00.

The applicant further testified that, there is a liquidated damages clause in the tenancy agreement that required the tenant to pay \$1495.00 if the tenant vacated the rental unit before the end of the term, and in this case the tenant abandoned the rental unit on or about April 30, 2017.

The applicant is therefore requesting a monetary claim as follows:

Utility bills outstanding	\$786.68
March 2017 NSF fee	\$25.00
March 2017 late rent fee	\$25.00
April 2017 rent outstanding	\$1495.00
Liquidated damages for breaching tenancy agreement	\$1495.00
Filing fee	\$100.00
Total	\$3926.68

Analysis

I have reviewed the information and testimony provided by the applicants and it is my finding that the applicant has established the full amount claimed.

The applicant has shown that the tenant was required to pay 45% of the utility bills, and that the tenant failed to do so. The applicant has shown that at the end of the tenancy there was a total of \$786.68 in outstanding utility charges.

The applicant is also shown that the March 2017 rent cheque was NSF and that rent was late for March 2017, and I therefore allow the landlords request for the NSF fee and late fee.

The applicant has also shown that the tenant failed to pay any rent for the month of April 2017 even though they were in the rental unit until the end of that month.

The applicant has also shown that, this was a fixed term tenancy agreement with an expiry date of June 30, 2017, and that there was a liquidated damages clause of

\$1495.00 if the tenants failed to stay to the end of that term, and in this case the tenant vacated well before the end of that term.

Therefore pursuant to section 62 and 67 of the Residential Tenancy Act I have allowed the following claim:

Utility bills outstanding	\$786.68
March 2017 NSF fee	\$25.00
March 2017 late rent fee	\$25.00
April 2017 rent outstanding	\$1495.00
Liquidated damages for breaching tenancy agreement	\$1495.00
Filing fee	\$100.00
Total	\$3926.68

Conclusion

I have issued a monetary order for the respondent to pay \$3926.68 to the applicants.

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: May 16, 2017

Residential Tenancy Branch