



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This hearing was adjourned from a Direct Request process in which a decision was made based solely on the written evidence submitted by the landlords. This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* ("Act") for:

- an Order of Possession for unpaid rent pursuant to section 55; and
- a Monetary Order for unpaid rent pursuant to section 67.

The tenants did not attend this hearing, which lasted approximately 20 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 landlord CK (the "landlord"), primarily spoke for both landlords.

The landlord testified that a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "10 Day Notice"), was served on the tenants by posting on the rental unit door on March 15, 2017. In accordance with sections 88 and 90 of the *Act*, I find that the tenants were deemed served with the landlord's 10 Day Notice on March 18, 2017, three days after mailing.

The landlord testified that the Notice of Adjourned Hearing, original Notice of Direct Request Proceeding, evidentiary materials and the substituted service decision were served on the tenant, SB by email on April 27, 2017. In accordance with the order for substituted service, which deemed this manner of service to be a sufficient means of service on tenant SB, I find that the tenant SB was served with the landlord's application materials on April 30, 2017, three days after the email was sent.

The landlord testified that they have not been able to serve the tenant DB. I find that the tenant DB has not been served in accordance with the *Act*.

At the outset of the hearing, the landlord testified that the tenants have abandoned the rental unit and an Order of Possession is no longer being sought. The landlord made an application requesting to amend the monetary amount of the claim sought. The landlord indicated that since the application was filed, and before it was discovered that the tenants had abandoned the rental unit, the tenants failed to pay the rent for April, 2017 and the total arrears as of the date of the hearing is \$7,330.00. As the increase in amount of rent owing can be reasonably anticipated, pursuant to section 64(3)(c) of the *Act* and Rule 4.2 of the Rules of Procedure I amend the landlords' Application to increase the landlords' monetary claim from \$5,272.00 to \$7,330.00.

Issue(s) to be Decided

Are the landlords entitled to a monetary award for unpaid rent?

Background and Evidence

The landlord provided undisputed testimony regarding the following facts. This month-to-month tenancy began in January, 2016. The rent is \$2,058.00 payable on the first of the month. A security deposit of \$1,000.00 was paid by the tenants at the start of the tenancy and is still held by the landlords. The landlord discovered that the tenants abandoned the rental unit, sometime between April 1 and April 13, 2017.

The landlord testified that at the time the 10 Day Notice was issued, the tenancy was in arrears by \$5,272.00. The landlord testified that the tenants subsequently failed to pay the rent owed for the month of April, and the total amount owing for the tenancy as of May 9, 2017, the date of the hearing, is \$7,330.00.

Analysis

The landlord provided undisputed evidence at this hearing, as the tenants did not attend. I find that the tenants were joint and severally obligated to pay the monthly rent in the amount of \$2,058.00. I accept the landlords' undisputed evidence that the total amount of arrears for this tenancy is \$7,330.00. I issue a monetary award for unpaid rent of \$7,330.00 owing from the months of January through April, 2017, pursuant to section 67 of the *Act*.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlords to retain the tenants' \$1,000.00 security deposit in partial satisfaction of the monetary award issued in the landlords' favour.

Conclusion

The landlords' claim for an Order of Possession is withdrawn.

I issue a monetary order in the landlords' favour in the amount of \$6,330.00 under the following terms, which allows the landlords to recover unpaid rent:

Item	Amount
Unpaid Rent January	\$1,856.00
Unpaid Rent February	\$1,358.00
Unpaid Rent March	\$2,058.00
Unpaid Rent April	\$2,058.00
Less Security Deposit	-\$1,000.00
Total Monetary Order	\$6,330.00

The tenants must be served with this Order as soon as possible. Should the tenants fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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 10, 2017

Residential Tenancy Branch