



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* ("Act"):

- an Order of Possession for unpaid rent pursuant to section 55;
- a Monetary Order for unpaid rent and utilities pursuant to section 67;
- authorization to retain the security deposit pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, which lasted approximately 15 minutes. The co-landlord TC (the "landlord") attended representing both co-landlords and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "10 Day Notice"), dated April 18, 2017 was served on the tenants on that date by posting on the rental unit door. In accordance with sections 88 and 90 of the *Act*, I find that the tenants were deemed served with the landlords' 10 Day Notice on April 21, 2017, three days after posting.

The landlord testified that the landlords' application for dispute resolution dated April 27, 2017 was sent to the tenants by registered mail on April 28, 2017. The landlord provided two Canada Post tracking numbers as evidence of service. I find that both of the tenants were deemed served with the landlords' application for dispute resolution and evidence package in accordance with sections 88, 89 and 90 of the *Act* on May 3, 2017, five days after mailing.

The landlord testified that the landlords' amendment to the application for dispute resolution dated May 18, 2017 was sent to the tenants by registered mail on that same date. The landlord provided two Canada Post tracking numbers as evidence of service. I find that both of the tenants were deemed served with the landlords' amendment to the application for dispute resolution in accordance with sections 89 and 90 of the *Act* on May 23, 2017, five days after mailing.

At the outset of the hearing the landlord testified that the tenants have vacated the rental unit and withdrew the portion of the application seeking an Order of Possession.

Also at the outset, the landlord made an application requesting to amend the monetary amount of the claim sought. The landlord indicated that since the application was filed the landlords have received an invoice for utilities providing the accurate amount of utility arrears as at the date of the hearing. Pursuant to section 64(3)(c) of the *Act* and Rule 4.2 of the Rules of Procedure, as receiving accurate arrears information from the utility provider could be reasonably anticipated, I amend the landlords' Application to increase the landlords' monetary claim from \$1,750.00 to \$2,094.79.

Issue(s) to be Decided

Are the landlords entitled to monetary compensation as claimed?

Are the landlords entitled to recover the filing fee for this application from the tenants?

Background and Evidence

The landlord provided undisputed testimony regarding the following facts. This periodic tenancy began sometime in 2010. The current rent is \$1,350.00 payable on the first of the month. The tenants are also responsible for paying the municipal utility bills which are issued directly to the tenants. A security deposit of \$720.00 was paid by the tenants at the start of the tenancy and still held by the landlords.

The landlord testified that at the time the 10 Day Notice was issued the tenants owed, \$1,350.00 for March rent. The landlord testified that the tenants made partial payment of \$950.00 on April 27, 2017 which was accepted for use and occupancy only. The landlord said the tenants failed to pay the May rent and utilities and that the total amount owing for the tenancy as of June 5, 2017, the date of the hearing is \$2,094.79, consisting of rent arrears of \$1,750.00 and utility arrears of \$344.79.

Analysis

The landlord provided undisputed evidence at this hearing, as the tenant did not attend. I find that the tenant was obligated to pay the monthly rent in the amount of \$1,350.00 and utilities. I accept the landlord's evidence that the tenants were given written demand for their utility payments in the 10 Day Notice, pursuant to section 46(6) of the *Act*. I accept the landlord's undisputed evidence that the total amount of arrears for this tenancy is \$2,094.79. I issue a monetary award in the landlords' favour for unpaid rent and utilities of \$2,094.79 as at June 5, 2017, the date of the hearing, pursuant to section 67 of the *Act*.

As the landlords' application was successful, the landlords are also entitled to recovery of the \$100.00 filing fee for the cost of this application.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlords to retain the tenants' security deposit of \$720.00 in partial satisfaction of the monetary award issued in the landlords' favour.

Conclusion

The portion of the landlords' application seeking an Order of Possession is withdrawn.

I issue a monetary order in the landlords' favour in the amount of \$1,474.79 under the following terms, which allows the landlords to recover unpaid rent and utilities and the filing fee for their application:

Item	Amount
Total Unpaid Rent for Tenancy	\$1,750.00
Total Unpaid Utilities	\$344.79
Filing Fee	\$100.00
Less Security Deposit	-\$720.00
Total Monetary Order	\$1,474.79

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: June 5, 2017

Residential Tenancy Branch