



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF, MNDC, MND

Introduction

This hearing dealt with the landlord's 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*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenants' pet damage and security deposits (the deposits) in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover his filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 11:10 a.m. in order to enable them to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord entered written evidence that he posted the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenants' door on May 3, 2017. I am satisfied that the landlord's agent served this Notice to the tenants in accordance with section 88 of the *Act*. In accordance with section 90 of the *Act*, the 10 Day Notice was deemed served to the tenants on May 6, 2017, the third day after its posting.

The landlord gave written evidence and sworn oral testimony that copies of the landlord's dispute resolution hearing package were sent to both tenants by registered mail on May 26, 2017. The landlord entered into written evidence copies of the returned envelopes; including the Canada Post Tracking Numbers, showing that his hearing packages sent to the tenants by Registered Mail were unclaimed by the tenants and

returned to him on June 30, 2017. I am satisfied that the landlord acted in accordance with sections 89 and 90 of the *Act*, and that the tenants are deemed to have been served the Notice of Hearing Packages.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent and damages?

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

Is the landlord entitled to retain all or a portion of the tenants' deposits in partial satisfaction of the monetary award requested?

Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

The landlord gave the following testimony. The tenancy began on or about May 1, 2017. Rent in the amount of \$1500.00 is payable in advance on the first day of each month. The tenant failed to pay rent in the month(s) of May and on May 3, 2017 the landlord served the tenant with a notice to end tenancy. The landlord testified that the tenant made a partial rent payment for May leaving an outstanding balance of \$700.00. The landlord testified that the tenants moved out of the unit on May 31, 2017 and no longer requires an order of possession.

The landlord testified that he spent \$10.48 for advertising the unit and seeks to recover that. The landlord also seeks compensation for a lilac bush that he says the tenants damaged and some fuel costs for traveling to and from his property to deal with this issue.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

The landlord did not provide sufficient evidence to support his claim of an “estimated \$300.00” for the replacement of the lilac bush or the “estimated” \$82.80 for travel costs; accordingly, I dismiss that portion of his claim.

Based on the undisputed evidence provided by the landlord, I am satisfied that the tenants continue to owe the landlord \$700.00 in unpaid rent. Applying the offsetting costs pursuant to Section 72 of the Act, I hereby apply the security deposit against the amount of unpaid rent. The landlord has provided documentation to support his claim for the advertising costs. The landlord is also entitled to the recovery of the \$10.48 of advertising costs.

The landlord is also entitled to the recovery of the \$100.00 filing fee.

Conclusion

The landlord has established a claim for \$810.48. I order that the landlord retain the \$700.00 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$110.48. This order may be filed in the Small Claims 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: July 10, 2017

Residential Tenancy Branch