



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR

Introduction

This hearing was convened in response to an application and amended application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55; and
2. A Monetary Order for unpaid rent - Section 67.

The Tenants did not attend the hearing. I accept the Landlord’s evidence that the Tenants were served with the application and amended application for dispute resolution and notice of hearing by registered mail on July 19, 2017 in accordance with Section 89 of the Act. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Tenants are deemed to have received the Materials on July 24, 2017.

The Landlord was given full opportunity to be heard, to present evidence and to make submissions. As the Landlord confirms that the Tenants moved out of the unit, I dismiss the claim for an order of possession.

Issue(s) to be Decided

Is the Landlord entitled to unpaid rent?

Background and Evidence

The tenancy started on March 1, 2016. Rent of \$1,192.55 is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$525.00 as a security deposit and \$300.00 as a pet deposit. The Tenants failed to pay rent for July 2017 and on July 6, 2017 the Landlord served the Tenants with a 10 day notice to end the tenancy for unpaid rent (the "Notice") by placing the Notice in the mailbox. The Tenants did not dispute the Notice and did not pay the outstanding rent. The effective or move-out date on the Notice is July 16, 2017 corrected to July 19, 2017. The Tenants moved out of the unit on August 8, 2017 and paid no rent for August 2017. After the Tenants moved out the Landlord did some renovations and rented the unit again for September 15, 2017.

Analysis

Section 46 of the Act requires that upon receipt of a 10 notice to end tenancy for unpaid rent the tenant must, within five days, either pay the full amount of the arrears indicated on the notice or dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. If a tenant remains in the unit past the effective date of a notice to end tenancy the tenant will be responsible for over holding rent. Based on the undisputed evidence that the Tenants failed to pay rent for July 2017 and did not move out of the unit until August 8, 2017 I find that the Landlord is entitled to **\$1,192.55** for unpaid July 2017 rent and **\$307.76** for the period August 1 to 8, 2017 ($\$1,192.55/31 \times 8$). As the Landlord did not advertise the unit for another tenant and did renovations after August 8, 2017 I find that the Landlord has not substantiated that the Tenants caused any loss of further rental monies for August 2017. Deducting the combined pet and security deposit plus zero interest of **\$875.00** from the entitlement leaves **\$625.31** owed by the Tenants to the Landlord.

Conclusion

I **order** that the Landlord retain the **deposit** and interest of \$875.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$625.31**. If necessary, 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: September 21, 2017

Residential Tenancy Branch