



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPITAL REGION HOUSING CORPORATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing was convened by way of conference call in response to the Landlord's Application for Dispute Resolution (the "Application") for an Order of Possession and a Monetary Order for unpaid rent. The Landlord also applied to keep the Tenants' security deposit and to recover the filing fee from the Tenants.

Two agents for the Landlord, the caretaker of the rental unit, and both Tenants appeared for the hearing. All testimony was taken under affirmation.

The hearing process was explained and no questions on how the proceedings would be conducted were asked. Both parties were given a full opportunity to present evidence, make submissions to me, and to cross examine the other party on the issues to be decided.

The Tenants confirmed receipt of the Landlord's Application and documentary evidence by registered mail pursuant to Section 89(1) (c) of the *Residential Tenancy Act* (the "Act"). The Tenants also confirmed that they had not provided any evidence prior to this hearing.

Preliminary Issue

During the hearing, the Landlord's agent confirmed that the Landlord had already obtained an Order of Possession to end the tenancy through a previous dispute resolution hearing which took place on August 22, 2017 pursuant to a notice to end tenancy for cause. The file number for that hearing is detailed on the front page of this Decision.

As the Landlord already has an order to end the tenancy, I dismissed the Landlord's Application for an Order of Possession. Therefore, I continue to now deal with the Landlord's monetary claim as follows.

Issue(s) to be Decided

- Is the Landlord entitled to a Monetary Order for unpaid rent?
- Is the Landlord entitled to keep the Tenants' security deposit in partial satisfaction of the monetary claim for unpaid rent?

Background and Evidence

The parties agreed that this month to month tenancy started on August 1, 2015. The Tenants paid \$479.00 as a security deposit on July 13, 2015 which the Landlord still holds in trust. Rent under the written agreement was established in the amount of \$958.00 payable on the first day of each month. The parties confirmed that during the tenancy the amount of rent payable increased to \$985.00 and that effective August 1, 2017, the monthly rent payable by the Tenants is \$1,000.00.

The Landlord testified that the Tenants failed to pay rent for June and July 2017 in the amount of \$985.00 per month and have also failed to pay for August and September 2017 rent of \$1,000.00 per month.

The Tenants were personally served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") on June 7, 2017. The Notice was provided into evidence and shows a vacancy date of June 17, 2017.

The Tenants did not dispute that they owed a total of \$3,970.00 in unpaid rent to the Landlord. The Tenants explained that they had lost their jobs and were making attempts to find work, even though they had been denied social assistance. The Tenants explained that they are going to work with the Landlord outside of this hearing to pay off the debt owed to the Landlord in the hopes that it will deter the Landlord from enforcing the Order of Possession which they had previously obtained.

Analysis

Section 26(1) of the Act requires a tenant to pay rent when it is due under a tenancy agreement. I accept the undisputed oral and written evidence of the parties that the Tenants have failed to pay rent in the amount of \$3,970.00. Accordingly, pursuant to

my authority under Section 64(3) (c) of the Act, I amend the Landlord's monetary claim for the increased amount claimed.

As a result, I award the Landlord the undisputed amount of rental arrears of \$3,970.00. As the Landlord has been successful in the monetary claim, I find the Landlord is also entitled to recover the \$100.00 Application filing fee pursuant to Section 72(1) of the Act. Therefore, the total amount payable by the Tenants to the Landlord is \$4,070.00.

As the Landlord already holds the Tenants' \$479.00 security deposit, I order the Landlord to retain this amount in partial satisfaction of the claim awarded, pursuant to Section 72(2) (b) of the Act. No interest is payable on the security deposit.

As a result, the Landlord is issued with a Monetary Order for the outstanding balance of \$3,591.00. This order must be served on the Tenant and may then be enforced in the Small Claims Division of the Provincial Court as an order of that court. Copies of the order for service and enforcement are attached to the Landlord's copy of this Decision. The Tenants may be held liable for any enforcement costs incurred by the Landlord.

Conclusion

The Landlord already has an Order of Possession rendered in a previous hearing. The Tenants have breached the Act by failing to pay rent. Therefore, the Landlord may keep the Tenants' security deposit and is issued with a Monetary Order for the remaining balance of \$3,591.00.

This Decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: September 14, 2017

Residential Tenancy Branch