



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC

Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) filed by the Landlords under the *Residential Tenancy Act* (the “Act”), for an Order of Possession.

The hearing was convened by telephone conference call and was attended by the Landlords, both of whom provided affirmed testimony. The Tenants did not attend. The Landlords were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

The Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”) state that the Respondents must be served with a copy of the Application and Notice of Hearing. As the Tenants did not attend the hearing, I inquired with the Landlords regarding service of the documents as explained below.

The Landlords testified that the Application, the Notice of Hearing, and 32 pages of evidence were sent individually to each of the Tenants by registered mail on September 16, 2017, and provided me with the registered mail receipts. As a result, I find that the Tenants were deemed served these documents on September 21, 2017, five days after they were sent by registered mail.

I have reviewed all evidence and testimony before me that met the requirements of the Rules of Procedure; however, I refer only to the relevant facts and issues in this decision.

Preliminary Matters

An Amendment to an Application for Dispute Resolution (the "Amendment") was received at the Residential Tenancy Branch (the "Branch") on October 5, 2017, amending the claim to include a request for a Monetary Order in the amount of \$3,400.00 for rent, and the recovery of the \$100.00 filing fee. The Landlords also provided an updated address for service. The Landlords testified that the Tenants were each sent the Amendment and related evidence by registered mail on October 6, 2017. Therefore, I find that the Tenants were served with the Amendment and related evidence on October 11, 2017, five days after they were sent by registered mail. In the hearing the Landlords also requested to amend the Application to include retention of the security deposit paid by the Tenants to offset any monetary amounts awarded to them. The Application was amended pursuant to the *Act*.

At the outset of the hearing the Landlords withdrew their claim for an Order of Possession stating that they had already received an Order of Possession by Direct Request and that the Tenants had vacated the rental unit October 26, 2017. The Landlords also withdrew their claim for recovery of the filing fee. I accept the Landlords' request for withdrawal of the above noted claims and the claims are withdrawn accordingly.

Issue(s) to be Decided

Are the Landlords entitled to a Monetary Order for rent pursuant to section 67 of the *Act*?

Background and Evidence

The tenancy agreement in the documentary evidence before me indicates that the one-year fixed-term tenancy began May 1, 2017, and that rent in the amount of \$1,700.00 is due on the first day of each month. The Landlords testified that a security deposit in the amount of \$800.00 was also paid by the Tenants, which they still hold.

The Landlords testified that the Tenants vacated the rental unit on October 26, 2017, and that as of the date of the hearing, they owe \$1,700.00 in unpaid rent for October, 2017.

Analysis

I accept the Landlords' undisputed testimony that as of the date of the hearing, rent in the amount of \$1,700.00 remains unpaid. As a result, I find that the Landlords are entitled to compensation for the \$1,700.00 in rent owed by the Tenants and pursuant to section 72 of the *Act*, I authorize the Landlords to retain, in full, the \$800.00 security deposit paid by the Tenants to offset this amount. Based on the above, the Landlords are entitled to a Monetary Order in the amount of \$900.00; \$1,700.00 in back-owed rent for October, 2017, less the \$800.00 security deposit retained by the Landlords.

Conclusion

Pursuant to section 67 of the *Act*, I grant the Landlords a Monetary Order in the amount of \$900.00. The Landlords are provided with this Order in the above terms and 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*. At the request of the Landlords, copies of the decision and order will be e-mailed to them at the address provided in the hearing.

Dated: November 7, 2017

Residential Tenancy Branch