



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPRM-DR, FFL

Introduction

This matter originally convened by way of an *ex parte* Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the *Act*), in which the Landlord sought an Order of Possession and a Monetary Order based on unpaid rent.

The residential tenancy agreement was provided in evidence but did not include a signature of the Tenants; as such, the Adjudicator adjourned the hearing of the Landlord's Application to a Participatory hearing.

The Participatory hearing was scheduled before me at 11:00 a.m. on September 20, 2019. At that time only the Landlord called into the hearing even though I left the teleconference hearing connection open until 11:40 a.m. . I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Landlord and I were the only ones who had called into this teleconference.

As the Tenants did not call in, I considered service of the Landlord's hearing package. The Landlord testified that he served the Tenants with the Notice of Hearing and the Application on July 26, 2019 by registered mail. A copy of the registered mail tracking number for both packages sent to the Tenants is provided on the unpublished cover page of this my Decision. The Landlord testified that the packages were returned as unclaimed.

Residential Tenancy Policy Guideline 12—Service Provisions provides that service cannot be avoided by refusing or failing to retrieve registered mail and reads in part as follows:

Where a document is served by registered mail, the refusal of the party to either accept or pick up the registered mail, does not override the deemed service provision. Where the registered mail is refused or deliberately not picked up, service continues to be deemed to have occurred on the fifth day after mailing.

Pursuant to the above, and section 90 of the *Residential Tenancy Act*, documents served this way are deemed served five days later; accordingly, I find the Tenants were duly served as of July 31, 2019 and I proceeded with the hearing in their absence.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Rules of Procedure*. However, not all details of the Landlord's submissions and or arguments are reproduced here; further, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Matters

The Landlord testified that the Tenants vacated the rental unit on September 2, 2019 such that his request for an Order of Possession was no longer required.

The Landlord also confirmed his email addresses during the hearing and his understanding that this Decision would be emailed to him.

Issues to be Decided

1. Is the Landlord entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?
2. Is the Landlord entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

Background and Evidence

The Landlord submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord on March 1, 2019, indicating a monthly rent of \$980.00, due on the first day of each month for a tenancy commencing on March 1, 2019;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) dated July 3, 2019, for \$2,340.00 in unpaid rent. The 10 Day Notice provides that the tenants had five days from the date of service to pay the rent in full or apply for Dispute Resolution or the tenancy would end on the stated effective vacancy date of July 16, 2019;
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was posted to the tenants' door at 8:10 pm on July 3, 2019; and

- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy.

The Landlord testified that although the copy of the tenancy agreement he submitted in evidence was unsigned, the Tenants did sign the agreement. This agreement provided that the Tenants were to pay rent in the amount of \$980.00. The Landlord confirmed that the Tenants also paid a security deposit in the amount of \$490.00.

The Landlord further testified that the Tenants failed to pay rent as follows:

Unpaid rent for May 2019	\$980.00
Unpaid rent for June 2019	\$380.00
Unpaid rent for July 2019	\$580.00
Unpaid rent for August 2019	\$980.00
Unpaid rent for September 2019	\$980.00
TOTAL OUTSTANDING RENT	\$3,900.00

The Landlord confirmed that he was able to re-rent the rental unit as of October 1, 2019, although to secure these new renters on short notice he allowed them to move in earlier than October 1, 2019. He confirmed that he did not charge rent from the new renters for any days in September 2019 as an incentive to rent the unit quickly.

Analysis

After consideration of the Landlord's undisputed testimony and evidence, and on a balance of probabilities I find as follows.

I find that the Tenants were obligated to pay monthly rent of \$980.00 on the first of the month.

I accept the Landlord's testimony that the Tenants failed to pay rent as required. I further accept his evidence that the sum of \$3,900.00 remains outstanding for the following months:

Unpaid rent for May 2019	\$980.00
Unpaid rent for June 2019	\$380.00
Unpaid rent for July 2019	\$580.00
Unpaid rent for August 2019	\$980.00
Unpaid rent for September 2019	\$980.00
TOTAL OUTSTANDING RENT	\$3,900.00

Pursuant to section 26 of the *Act*, a tenant must pay rent when rent is due. I therefore find that the Landlord is entitled to monetary compensation for unpaid rent in the amount of \$3,900.00.

As the Landlord has been substantially successful in his Application I also award him recovery of the \$100.00 filing fee for a total monetary award of **\$4,000.00**.

Pursuant to section 72 of the *Act*, I authorize the Landlord to retain the Tenants' \$490.00 security deposit towards the amounts awarded and I grant the Landlord a Monetary Order for the balance due in the amount of **\$3,510.00**.

Conclusion

The Tenants vacated the rental unit such that an Order of Possession was not required.

The Landlord is entitled to retain the Tenants' security deposit and is granted a Monetary Order in the amount of \$3,510.00 for unpaid rent and recovery of the filing fee.

This Decision is final and binding on the parties, except as otherwise provided under the *Act*, and 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 20, 2019

Residential Tenancy Branch