



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding EXCLUSIVE MANAGEMENT and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, CNR, FF

Introduction

This was a cross-application hearing for Dispute Resolution under the *Residential Tenancy Act* (“the Act”).

On October 3, 2020 the Tenants applied to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated October 2, 2020.

On October 20, 2020, the Landlord applied for an order of possession for the rental unit based on a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities and for a monetary order for unpaid rent.

This matter was set for hearing by telephone conference call at 9:30 am on this date. The Landlord attended the hearing; however, the Tenants did not. The line remained open while the phone system was monitored for ten minutes and the Tenants did not call into the hearing during this time. Therefore, as the Tenants did not attend the hearing by 9:40 am I dismiss their application without leave to reapply.

The hearing proceeded based on the Landlord’s application. The Landlord testified that the Tenants vacated the rental unit a couple of days prior to the hearing and the Landlord no longer requires an order of possession for the rental unit.

The Landlord confirmed that she wanted to proceed with the claim for unpaid rent.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

The Landlord requested to amend her application to include a claim to keep the security deposit of \$700.00 towards unpaid rent.

Issues to be Decided

- Is the Landlord entitled to a monetary order due to non-payment of rent owing under the tenancy agreement?
- Can the Landlord keep the security deposit?

Background and Evidence

The Landlord testified that the tenancy began in August 2017. Rent in the amount of \$1,490.00 is due to be paid to the Landlord by the first day of each month. The Tenants paid the Landlord a security deposit of \$700.00. The Landlord provided a copy of the tenancy agreement.

The Landlord testified that the Tenants did not pay the rent owing under the tenancy agreement.

The Landlord submitted the following information on rent payments:

<u>Month</u>	<u>Payment Made</u>	<u>Rent Owing</u>
April 2020	\$0	\$1,490.00
May 2020	\$500.00	\$1010.00
June 2020	\$0	\$1,490.00
July 2020	\$0	\$1,490.00
August 2020	\$0	\$1,490.00
September 2020	\$1,000.00	\$490.00
October 2020	\$0	\$1,490.00
November 2020	\$0	\$1,490.00
December 2020	\$0	\$1,490.00
Total	\$1,500.00 paid	\$11,910.00 owing

The Landlord is requesting a monetary order for unpaid rent in the amount of \$11,910.00.

Analysis

Section 26 of the Act states that a Tenant must pay the rent when it is due under the tenancy agreement, whether or not the Landlord complies with the Act, the regulations,

or the tenancy agreement, unless the Tenant has a right under this Act to deduct all or a portion of the rent.

Based on the evidence before me, the testimony of the Landlord, and on a balance of probabilities, I make the following findings:

I accept the Landlord's testimony that the monthly rent due under the tenancy agreement is \$1,490.00 due by the first day of each month. I accept the Landlord's testimony that the Tenants failed to pay the rent when it was due. I find that the Tenants owe the Landlord \$11,910.00 in unpaid rent for the above-mentioned months.

I allow the claim to be amended to include a claim for the Landlord to keep the security deposit of \$700.00 towards the unpaid rent.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenants to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution.

After setting off the \$700.00 security deposit against the award of \$12,010.00 I find that the Landlord is entitled to a monetary order in the amount of \$11,310.00. This monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenants are cautioned that costs of such enforcement are recoverable from the Tenants.

Conclusion

The Tenants failed to pay the rent owing under the tenancy agreement. The Landlord is granted a monetary order for unpaid rent and the cost of the filing fee in the amount of \$13,310.00.

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

Dated: December 11, 2020

Residential Tenancy Branch