



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, OPR-DR, MNR-DR

Introduction

This hearing, adjourned from a Direct Request process in which a decision is made based solely on the written evidence submitted by the landlord, dealt with the landlords' application pursuant to the *Residential Tenancy Act* ("Act") for:

- an Order of Possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

RT ("landlord") represented the landlords in this hearing. While the landlord attended the hearing by way of conference call, the tenants did not. I waited until 9:40 a.m. to enable the tenants to participate in this scheduled hearing for 9:30 am. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlords testified that the tenants were personally served with the landlords' application for dispute resolution hearing package on June 17, 2021. In accordance with sections 88 and 89 of the *Act*, I find that the tenants duly served with the landlords' application.

The landlord testified that the tenants have moved out, and that they no longer require an Order of Possession. Accordingly, this portion of their application is cancelled.

Although the landlords applied for a monetary Order of \$300.00 in their initial claim, since they applied another \$500.00 in rent has become owing that was not included in their application. I have accepted the landlords' request to amend their original

application from \$300.00 to \$500.00 to reflect this additional unpaid rent that became owing by the time this hearing was convened.

Issue(s) to be Decided

Are the landlords entitled to monetary compensation for unpaid rent pursuant to section 67 of the *Act*?

Are the landlords entitled to recover their filing fee for this application pursuant to section 72 of the *Act*?

Background and Evidence

The landlord testified regarding the following facts. This fixed-term tenancy began on June 1, 2020, and was to end on June 30, 2021. Monthly rent was set at \$2,700.00, payable on the first of the month. The landlords collected a security and pet damage deposit in the amounts of \$1,350.00 each deposit, which they still hold.

The landlords served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent on May 10, 2021 for failing to pay the outstanding rent. The landlord testified that the tenants moved out, leaving the home in damaged and unreasonably cleaned condition. The landlords have not filed an application to recover these losses as part of this application as this application was filed on May 18, 2021, prior to the tenants moving out.

The landlord testified in the hearing that the tenants owe \$800.00 in unpaid rent. The landlord is requesting a monetary order for unpaid rent, and to recover the filing fee.

Analysis

Section 26 of the *Act*, in part, states as follows:

Rules about payment and non-payment of rent

- 26** (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this 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.

The landlord provided undisputed evidence that the tenants failed to pay the outstanding rent in the amount of \$800.00. Therefore, I find that the landlords are entitled to \$800.00 in outstanding rent for this tenancy.

As the landlords were successful in their application, I find that they are entitled to recover the filing fee for this application.

The landlords continue to hold the tenants' security and pet damage deposits of \$1,350.00 each deposit. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlords to retain \$900.00 of the tenants' security deposit in satisfaction of the monetary awards.

Conclusion

I allow the landlords a monetary order in the amount of \$800.00 for unpaid rent and \$100.00 for the filing fee. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlords to retain \$900.00 of the tenants' security deposit in satisfaction of the monetary awards.

As the tenants have moved out, the landlords cancelled their application for an Order of Possession.

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: July 23, 2021

Residential Tenancy Branch