



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPR, MNR, MNSD, FF

Introduction

This hearing was convened in response to applications by the landlord and the tenants.

The landlord's application is seeking orders as follows:

1. For an order of possession;
2. For a monetary order for unpaid rent and utilities.
3. To keep all or part of the security deposit; and
4. To recover the cost of filing the application.

The tenants' application is seeking orders as follows:

1. To cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities; and
2. To recover the cost of the filing the application.

Only the landlord appeared.

Preliminary and Procedural Matters

The landlord stated that they were never served with the tenants' application. The landlord stated that the current process is unfair because the tenants filed their application for dispute resolution late and acknowledged they owed rent. The landlord stated this was simply a delay tactic. The landlord stated even though the tenant's application had no merit that it interfered with their rights to proceed with their application by the direct request process causing further loss of rent.

The landlord testified that the tenants were served with their application for dispute resolution and notice of hearing, in person, on July 16, 2021.

The landlord stated that on August 5, 2021, that they discovered that the tenants had abandoned the rental unit leaving lots of garbage behind. The landlord stated that they no longer require an order of possession.

I note in the tenants' application they have listed JP and SP as tenants. They are not tenants listed in the tenancy agreement. Therefore, I have removed them from the style of cause.

Issue to be Decided

Is the landlord entitled to a monetary order for unpaid rent and utilities?

Is the landlord entitled to keep the security deposit in partial satisfaction?

Background and Evidence

The tenancy began on December 1, 2006. Rent in the amount of \$1,100.00 was payable on the first of each month. A security deposit of \$550.00 was paid by the tenants.

The landlord testified that the tenants were in rent arrears in the amount of \$1,950.00 and \$406.73 in utilities at the time the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") issued on June 3, 2021.

The landlord testified that on July 6, 2021, the tenants paid the amount of \$1,500.00 towards the rent arrears leaving outstanding rent of \$450.00 and \$406.37 in utilities in the Notice.

The landlord testified that the tenants did not pay any rent for July and August 2021, for an additional \$2,200.00 and failed to pay the utilities in the amount of \$88.61. The landlord seeks to recover unpaid rent and utilities in the total amount of \$3,145.34.

The tenant's write in their application the following submission

"We are disputing the claim listed because we have recently made payments towards the arrears in rent that were negotiated and hydro that is directly paid to (New West Utilities) not the landlord. **We have also offered the landlord full**

payment of the arrears of the rent by June 30, 2021. Please note this has all started when the landlord cut down trees on the property and the city began to inform the landlord to maintain the property with painting the house including repairing windows”.

[Reproduced as written.]

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I accept the undisputed evidence of the landlord that the tenants were in rent arrears of \$1,950.00 and utilities of \$406.73 when the Notice was issued. This is supported by the tenants’ submission that they offered the landlord full payment for the arrears to be paid. I accept the undisputed evidence of the landlord that they received from the tenants the amount of \$1,500.00 on July 6, 2021. Leaving rent arrears in the Notice in the amount of \$450.00 and utilities of \$406.73, unpaid.

I accept the undisputed evidence of the landlord that they received no further money from the tenants. This leaving rent for July 2021, August 2021 unpaid in the total amount of \$2,200.00 and additional utilities of \$88.61.

Based on the above, I find the landlord is entitled to recover unpaid rent in the total amount of \$2,650.00 and utilities in the amount of \$495.34 for the total amount of **\$3,145.34.**

I find that the landlord has established a total monetary claim of **\$3,245.34** comprised of the above described amount and the \$100.00 fee paid for this application.

I order that the landlord retain the security deposit of **\$550.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 of the Act for the balance due of **\$2,695.34.**

This 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

As the tenants abandoned the rental unit and failed to attend the hearing. I dismiss the tenants' application without leave to reapply. **The tenants are cautioned** that filing applications for dispute resolution without merit is an abusive of process. This could lead to the tenants to be referred to the Compliance and Enforcement Unit for investigation and consideration for administrative penalties.

The landlord is granted a monetary order and may keep the security deposit in partial satisfaction of the claim and the landlord is granted a formal order for the balance due.

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: September 13, 2021

Residential Tenancy Branch