



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, FF

Introduction

This hearing dealt with the landlords' application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act) for:

- a monetary order for unpaid rent; and
- to recover the cost of the filing fee.

The landlords attended the hearing; however, the tenants did not attend.

The landlord stated they served each tenant with their Application for Dispute Resolution, evidence, and Notice of Hearing (application package) by registered mail on or about August 13, 2021. The landlord said they mailed the application package to the forwarding address provided by the tenants on the move-out condition inspection report (Report). The landlords submitted that tenant DS collected the registered mail and the registered mail sent to the other tenant was returned. The tracking numbers for the Canada Post registered mail provided by the landlords are shown on the style of cause page of this Decision.

I accept the landlords' evidence and find that the tenants were served the application and notice of this hearing in a manner complying with section 89(1) of the Act and the hearing proceeded in the tenants' absence.

The landlords were provided the opportunity to present their evidence orally and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules). However, not all details of the submissions and/or arguments are reproduced here.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

The landlords were informed prior to the start of the hearing they were not allowed to record the hearing.

Issue(s) to be Decided

Are the landlords entitled to monetary compensation from the tenants and to recover the cost of the filing fee?

Background and Evidence

This tenancy originally began on or about September 15, 2012, for a monthly rent of \$900, with the tenants paying a security deposit of \$450. The monthly rent increased during the tenancy to \$990. Filed in evidence was a copy of the written tenancy agreement and the notice of a rent increase.

The landlord submitted said the tenancy ended on or about April 6, 2020.

The landlords testified that the tenants failed to pay the full amount of the monthly rent owed during the tenancy, primarily during 2019 and 2020. The landlords submitted that they received an email from the tenant DS on October 20, 2019, stating the total rent owed through March 31, 2020, would be \$8,910. The landlords submitted they agreed with that amount.

From this amount, the landlords deducted payments of \$990, \$200 and \$200, made after October 20, 2019, plus the security deposit of \$500, according to the written submission of the landlords, leaving a total owed by the tenants in the amount of \$7,020 by the end to the tenancy.

In addition, the landlords said the tenants acknowledged they did not pay the full amount of monthly rent and they told the landlords they were not intending on contesting their application.

The landlord submitted that the tenants were obligated to pay the monthly rent under the tenancy agreement, but failed to pay the full amount.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

Under section 7(1) of the Act, if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other party for damage or loss that results. Section 7(2) also requires that the claiming party do whatever is reasonable to minimize their loss. Under section 67 of the Act, an arbitrator may determine the amount of the damage or loss resulting from that party not complying with the Act, the regulations or a tenancy agreement, and order that party to pay compensation to the other party. The claiming party has the burden of proof to substantiate their claim on a balance of probabilities.

Despite being duly served with the landlords' application package, the tenants failed to attend the hearing. The landlords' evidence is therefore uncontested.

Under section 26 of the Act, a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, unless the tenant has a right under the Act to deduct all or a portion of the rent.

I find that the landlords submitted sufficient evidence to show that under the terms of the written tenancy agreement, the tenants owed, but did not pay all the monthly rent during the tenancy.

As a result, I therefore find the landlords have established a monetary claim of **\$7,020**, as noted above and as claimed.

Due to their successful application, I grant the landlords recovery of their filing fee of **\$100**.

I acknowledge that the tenants' security deposit listed on the written tenancy agreement was \$450 and the monetary claim listed on their application for unpaid monthly rent

itself was \$7,121. I have used the written submissions of the landlords for the calculations.

Conclusion

I issue a monetary order of **\$7,120** in favour of the landlords as follows:

ITEM	AMOUNT
1. Unpaid rent deficiency	\$7,020.00
2. Filing fee	\$100.00
TOTAL	\$7,120.00

The landlords are provided with a Monetary Order in the above terms and the tenants must be served with this Order as soon as possible to be enforceable. 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.

The tenants are cautioned that enforcement costs are subject to recovery from the tenants.

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*. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: February 8, 2022

Residential Tenancy Branch