



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR-DR, MNR-DR, FFL

Introduction

This hearing was scheduled to convene at 11:00 a.m. on March 11, 2022 concerning an application made by the landlords seeking an Order of Possession and a monetary order for unpaid rent or utilities and to recover the filing fee from the tenants for the cost of the application. The application was made by way of the Direct Request process which was referred to this participatory hearing, and an Interim Decision was provided to the landlords, which required the landlords to serve the tenants with a copy of the Interim Decision and other required documents within 3 days of receiving the Interim Decision.

Both landlords attended the hearing, one of whom gave affirmed testimony. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the tenants joined the call.

The landlord testified that each of the tenants was served with the Interim Decision, notice of this hearing and all other required documents by registered mail on December 10, 2021 and has provided 2 Registered Domestic Customer Receipts stamped with that date by Canada Post, and I am satisfied that both tenants have been served in accordance with the Interim Decision and the *Residential Tenancy Act*.

At the commencement of the hearing, the landlord advised that the tenants have vacated the rental unit, the landlords have possession, and the landlords withdraw the application for an Order of Possession.

Issue(s) to be Decided

The issue remaining to be decided is:

- Have the landlords established a monetary claim as against the tenants for unpaid rent?

Background and Evidence

The landlord testified that this fixed-term tenancy began on February 14, 2012 and reverted to a month-to-month tenancy after February 14, 2013. Rent in the amount of \$1,750.00 was originally payable on the 1st day of each month, which was increased over time up to \$1,940.00 per month. Copies of Notices of Rent Increase have been provided as evidence for this hearing. At the outset of the tenancy the landlords collected a security deposit from the tenants in the amount of \$875.00 which is still held in trust by the landlord. The tenancy agreement, a copy of which has also been provided for this hearing specifies a pet damage deposit in the amount of \$400.00, however the landlord testified that the pet damage deposit was never paid by the tenants. The rental unit is a single family dwelling.

The landlords served the tenants with a Two Month Notice to End Tenancy for Landlord's Use of Property, by personally handing it to one of the tenants. A copy has been provided for this hearing and it is dated August 30, 2021 and contains an effective date of vacancy of October 31, 2021. The reason for issuing it states: The rental unit will be occupied by the landlord or the landlord's close family member (parent, spouse or child; or the parent or child of that individual's spouse), specifying the child of the landlord or landlord's spouse. The landlords moved into the rental home on approximately February 20, 2022 after selling their primary residence.

The landlords also served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on October 4, 2021 by personally handing it to one of the tenants. A copy has been provided for this hearing and it is dated October 4, 2021 and contains an effective date of vacancy of October 17, 2021 for unpaid rent in the amount of \$1,940.00 that was due on October 1, 2021.

One of the tenants moved out prior to November, 2021 and the other tenant vacated on or about November 3, 2021. Rent for the month of September, 2021 was not paid and the remaining tenant wanted to apply the 1 month's compensation to September's rent. However, no rent was paid for October, 2021.

The tenants did not dispute either of the Notices, and have not provided the landlords with a forwarding address. The tenants have not served the landlords with an application seeking recovery of the security deposit.

The landlords seek a monetary order for October's rent in the amount of \$1,940.00 and recovery of the \$100.00 filing fee.

Analysis

I have reviewed the evidentiary material provided by the landlords, and no evidence has been provided by the tenants.

I accept the undisputed testimony of the landlord that the tenants claimed compensation for September, 2021 rent, but did not pay any rent for October, 2021 and remained in the rental unit until November 3, 2021.

I have also reviewed the Notices of Rent Increase provided by the landlords, and I am satisfied that rent in the amount of \$1,940.00 was payable on the 1st day of each month. Therefore, I grant a monetary order in favour of the landlords in the amount of \$1,940.00.

Since the landlords have been partially successful with the application, the landlords are also entitled to recovery of the \$100.00 filing fee.

The landlords currently hold a security deposit in the amount of \$875.00 but have not applied to keep it in partial satisfaction of the claim, and I make no orders with respect to the security deposit. The landlord testified that the tenants have not provided the landlords with a forwarding address. If the tenants provide a forwarding address in writing to the landlords, the landlords will have 15 days to return the security deposit to the tenants or make an Application for Dispute Resolution claiming the deposit. If the tenants do not provide the landlords with a forwarding address in writing within 1 year of the date the tenancy ends, the landlords may keep the security deposit.

Conclusion

For the reasons set out above, the landlords' application for an Order of Possession is hereby dismissed, as withdrawn by the landlords.

I hereby grant a monetary order in favour of the landlords as against the tenants pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$2,040.00.

This order is final and binding and may be enforced.

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: March 11, 2022

Residential Tenancy Branch