



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: FFL MNR OPR

Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* ("the *Act*") for an Order of Possession 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 .

While the landlord's agent, RA, ("landlord") attended the hearing by way of conference call, the tenants did not. I waited until 9:42 a.m. to enable the tenants to participate in this scheduled hearing for 9:30 a.m. The landlord's agent 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's agent and I were the only ones who had called into this teleconference.

The landlord testified that the tenants were served with the landlord's application for dispute resolution hearing package on December 23, 2021 by way of registered mail. The landlord provided a tracking number in their evidentiary materials. In accordance with sections 88, 89 and 90 of the *Act*, I find that the tenants deemed served with the landlord's application and evidence on December 28, 2021, five days after its registered mailing. The tenants did not submit any written evidence for this hearing.

The landlord's agent confirmed at the beginning of the hearing that the tenants had abandoned the property as of January 1, 2022, and the landlords no longer required an Order of Possession. Accordingly, this portion of the landlords' application was cancelled.

Issue(s) to be Decided

Are the landlords entitled to monetary compensation for unpaid rent?

Are the landlords entitled to recover their filing fee for this application?

Background and Evidence

The landlord testified regarding the following facts. This fixed-term tenancy began on April 9, 2021 and was to end on May 1, 2022 as per the tenancy agreement. Monthly rent was set at \$1,950.00, payable on the first of the month. The landlords still hold the security deposit of \$975.00 for this tenancy.

The landlord served the tenants with a 10 Day Notice to End Tenancy For Unpaid Rent on November 21, 2021. The landlord testified that the tenants abandoned the property as of January 1, 2022 without paying any of the outstanding rent, which has accrued to \$5,500.00. The landlords are requesting a monetary order for the outstanding rent plus 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 moved out without paying the outstanding rent in the amount of \$5,500.00. On this basis, I allow the landlords to recover the unpaid rent for this tenancy

As the landlords were successful with this application, I allow the landlords to recover the filing fee paid for this application.

The landlords continue to hold the tenants' security deposit of \$975.00. In accordance with the offsetting provisions of section 72 of the Act, I order the landlords to retain the tenants' security deposit in partial satisfaction of the monetary claim.

Conclusion

The landlords cancelled their application for an Order of Possession as the tenants had moved out.

I allow the landlords' monetary claims as set out in the table below. The landlords are issued a monetary order in the amount of \$4,625.00. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlords to retain the tenants' security deposit in satisfaction of the monetary claim.

Unpaid Rent	\$5,500.00
Filing Fee	100.00
Less Deposit Held by Landlord	-975.00
Total Monetary Order	\$4,625.00

The tenant(s) must be served with this Order as soon as possible. Should the tenant(s) 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.

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 31, 2022

Residential Tenancy Branch