



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

For the tenants: DRI ERP
For the landlord: OPR MNR FF

Introduction

This hearing was convened as a result of the cross-applications of the parties for dispute resolution under the *Residential Tenancy Act* (the “Act”).

The landlord applied for an order of possession for unpaid rent or utilities, for a monetary order for damage to the unit, site or property, for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and to recover the filing fee.

The tenants applied to dispute an additional rent increase and for an order for the landlord to make emergency repairs for health or safety reasons.

The landlord and the tenants attended the teleconference hearing. The hearing process was explained to the parties and an opportunity was given to ask questions about the hearing process. Thereafter the parties gave affirmed testimony, were provided the opportunity to present their evidence orally and in documentary form prior to the hearing, and make submissions to me.

Neither party raised any concerns regarding the service of documentary evidence.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

At the outset of the hearing, the landlord requested to withdraw his request for an order of possession as the tenants vacated the rental unit in September 2016. According to the tenants they vacated on September 16, 2016. According to the landlords, they abandoned the rental unit on September 26, 2016. Therefore, an order of possession will not be considered in this Decision.

As the tenancy has ended, the tenants' application is **dismissed** and will not be considered further in this Decision.

Issue to be Decided

- Is the landlord entitled to a monetary order for unpaid rent under the *Act*, and if so, in what amount?

Background and Evidence

The parties agreed that a written tenancy agreement does not exist as the tenancy was based on a verbal agreement between the parties. The parties agreed that monthly rent in the amount of \$775.00 was due on the first day of each month. The parties also agreed that the tenants paid a security deposit of \$387.50 at the start of the tenancy which the landlord continues to hold.

The landlord claimed the rent had increased to \$800.00 as of July 1, 2016, however, the landlord was advised that he failed to serve a notice of rent increase on the tenants and as such, the rent remained at \$775.00 as the landlord failed to comply with section 43 of the *Act*.

The landlord is claiming for unpaid July, August and September 2016 rent. The tenants confirmed that rent was not paid for July, August or September 2016 due to allegations of bed bugs in the rental unit.

Analysis

Based on the documentary evidence and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

Landlord's claim for unpaid rent – There is no dispute that the tenants failed to pay rent for July, August and September 2016 of \$775.00 per month for a total of \$2,325.00

in unpaid rent. Section 26 of the *Act* requires that tenants pay rent on the day that it is due in accordance with the tenancy agreement. Even if the tenants' allegations regarding bed bugs were true, which I make no finding regarding, the tenants are still required to pay rent whether or not the landlord complies with the *Act*. Therefore, I find that the tenants breached section 26 of the *Act* by failing to pay rent for the months of July, August and September of 2016. I find the landlord has met the burden of proof and is entitled to monetary compensation of **\$2,325.00** comprised of \$775.00 for unpaid rent for each of the months of July, August and September of 2016.

As the landlord's claim had merit, I grant the landlord the recovery of their filing fee in the amount of **\$100.00**.

Monetary Order - I find that the landlord has established a total monetary claim of **\$2,425.00** comprised of \$2,325.00 in unpaid rent, plus the recovery of the cost of the \$100.00 filing fee. Pursuant to section 72 of the *Act*, **I authorize** the landlord to retain the tenant's full security deposit of \$387.50 in partial satisfaction of the landlord's monetary claim. I grant the landlord a monetary order pursuant to section 67 of the *Act*, for the balance owing by the tenants to the landlord in the amount of **\$2,037.50**.

I CAUTION the landlord to comply with section 13 of the *Act* in the future which requires that tenancy agreements be in writing.

I CAUTION the landlord to comply with section 43 of the *Act* in the future when attempting to increase the rent as rent increases must comply with section 43 of the *Act* to be valid and enforceable.

Conclusion

The tenants' application is dismissed.

The landlord's application is successful.

The landlord has established a total monetary claim of \$2,425.00 comprised of \$2,325.00 in unpaid rent, plus the recovery of the cost of the \$100.00 filing fee. The landlord has been authorized to retain the tenant's full security deposit of \$387.50 in partial satisfaction of the landlord's monetary claim. The landlord has been granted a monetary order pursuant to section 67 of the *Act*, for the balance owing by the tenants to the landlord in the amount of \$2,037.50. This order must be served on the tenants and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

The landlord has been cautioned to comply with sections 13 and 43 of the *Act* in the future as described above.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: October 20, 2016

Residential Tenancy Branch

