



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR MNDC FF

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the *Act*), I was designated to hear the landlords' application for:

- a Monetary Award for unpaid rent pursuant to section 67 of the *Act*, and
- a return of the filing fee pursuant to section 72 of the *Act*.

Both landlords attended the hearing, while the tenants failed to attend. The landlords explained that individual copies of the landlords' application for dispute resolution along with evidentiary packages were sent to the tenants by way of Canada Post Priority Mail. Copies of the Canada Post tracking numbers were provided to the hearing. Pursuant to section 88, 89 & 90 of the *Act*, the tenants are deemed served with these documents five days after their posting.

Following opening remarks, the landlords explained they were no longer seeking an Order of Possession as the tenants had vacated the rental unit on approximately January 28 or 29, 2018.

Issue(s) to be Decided

Are the landlords entitled to a monetary award for unpaid rent?

Can the landlords recover the filing fee?

Background and Evidence

The landlords provided undisputed testimony that this tenancy began on December 1, 2017. Rent was \$2,600.00 per month, and security and pet deposits of \$1,300.00 each collected at the outset of the tenancy, continue to be held by the landlords.

At the hearing, the landlords explained that the tenants took possession of the rental unit a week early and had failed to pay rent for a week in November 2017. In addition, the tenants are alleged to have failed to pay rent of \$1,700.00 for December 2017 and in its entirety for January 2018.

The landlords are seeking a monetary award for the rent which was unpaid for a week in November 2017, for \$1,700.00 worth of rent in December 2017 and for the entirety of January 2018 rent.

On January 28, 2018 the parties had a hearing which the tenants failed to attend. The landlords said that suspected that the tenants had vacated the rental unit on, or around the same day as the hearing.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the landlords to prove their entitlement to a claim for a monetary award.

Based on the undisputed oral testimony presented at the hearing by the landlords, I am satisfied that partial rent remains outstanding for November & December 2017, and in its entirety for January 2018. The tenants did not appear at the hearing and were unable to provide any testimony or evidence refuting the landlords' assertion that rent was unpaid. For these reasons, I allow the landlords to collect a monetary award for unpaid rent for November & December 2017, and for January 2018.

Using the offsetting provisions contained in section 72 of the *Act*, I allow the landlords to retain the tenants' pet and security deposits as partial compensation for the money

owed. As the landlords were successful in her application, they may recover the \$100.00 filing fee from the tenants.

Conclusion

I issue a monetary order in the landlords favour in the amount of \$2,450.00 as follows:

Item	Amount
Partial Unpaid Rent for November 2017	\$650.00
Partial Unpaid Rent for December 2017	1,700.00
Unpaid Rent for January 2018	2,600.00
Filing Fee	100.00
Less Security & Pet Deposits	(-2,600.00)
Total =	\$2,450.00

The landlords are provided with these Orders in the above terms and the tenants must be served with this Order as soon as possible. Should the tenants fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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 14, 2018

Residential Tenancy Branch