Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes:

OPR, MNR, MNSD, FF

Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, to retain all or part of the security deposit, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution. At the hearing the Agent for the Landlord withdrew the application for an Order of Possession and a monetary Order for unpaid rent, as the Tenant has paid all of the outstanding rent and the rental unit has been vacated.

The Agent for the Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Tenant via registered mail at the address noted on the Application, on January 16, 2008. A tracking number was provided. The Canada Post website shows the mail was picked up on January 19, 2008. These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act (Act),* however the Tenant did not appear at the hearing.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to keep all or part of the security deposit and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38 and 72 of the *Act.*

Background and Evidence

The Agent for the Landlord stated that this tenancy began on May 06, 2008; that the Tenant was required to pay monthly rent of $785.00; and that the Tenant paid a security deposit of $392.50.

The Agent for the Landlord stated that a ten (10) day Notice to End Tenancy for non-payment of rent, which had an effective date of January 20, 2009, was posted on the front door of the rental unit on January 07, 2009.   The Notice indicated that the Tenant is presumed to have accepted that the tenancy is ending and that the Tenant must move out of the rental by the date set out in the Notice unless the Tenant pays the outstanding rent or files an Application for Dispute Resolution within five days of the date they are deemed to have received the Notice.

The Agent for the Landlord stated that the Tenant paid all of the outstanding rent on January 16, 2009, after the Landlord submitted the Application for Dispute Resolution.

Analysis

I find that the Landlord incurred a $50.00 fee for filing this Application for Dispute Resolution due to the Tenant's failure to pay the outstanding rent within five days of the date he received the Notice to End Tenancy. I therefore find that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Conclusion

I hereby authorize the Landlord to retain $50.00 from the Tenant's security deposit in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution.

Date of Decision: February 06, 2009