

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 dealt with an application by the landlord for an order of possession due to unpaid rent, a monetary order to recover rental arrears and inclusive of recovery of the filing fee associated with this application, and an order to retain the security deposit in partial satisfaction of the monetary claim. Despite having been served with the application for dispute resolution and notice of hearing by registered mail, and deemed served in accordance with Section 89 of the Residential Tenancy Act (the Act) the tenant did not participate in the conference call hearing.

As the tenants have moved from the rental unit, this decision will only deal with matters pertaining to the monetary claim.

Issue(s) to be Decided

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The undisputed evidence before me is as follows. The tenancy began on August 27, 2008. Rent in the amount of \$900 was payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$450.

The tenant failed to pay rent in the month of January 2009 in the amount of \$900 and on February 06, 2009 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The tenant further failed to pay rent in the month of March 2009. The

tenant vacated on or about March 20, 2009. At the time the tenant vacated the tenant also owed a quantum of utilities in the amount of \$534.10. The landlord is claiming two (2) late fees in the amount of $\$35 \times 2 = \70 . The Act only permits a maximum of \$25 per late fee if this provision is inclusive in the Tenancy Agreement. Therefore, I reduce this claim to a total of \$50.

The tenant's total claim is for **\$2384.10** in unpaid rent, utilities and late fees.

Analysis

Based on the landlord's testimony I find that the tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid

As for the monetary order, I find that the landlord has established a claim for \$2384.10 in unpaid rent. The landlord is also entitled to recovery of the \$50 filing fee for this application only, for a total entitlement of **\$2434.10**

Conclusion

I order that the landlord retain the deposit and accrued interest of \$452.34 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$1981.76**. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated April 24, 2009