



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes

OPR, MNR, MNSD, & FF

Introduction

This hearing dealt with the landlord's application seeking an Order of Possession and a monetary claim related to non-payment of rent by the tenant.

Issues(s) to be Decided

Is the landlord entitled to a monetary claim related to non-payment of rent by the tenant?

Background and Evidence

This tenancy began on August 1, 2008 for the monthly rent of \$725.00 and a security deposit of \$362.50 paid on July 21, 2008.

On June 5, 2009 the tenant was served with a ten day Notice to End Tenancy due to Unpaid Rent when it was posted to the door of the rental unit. The Notice states that the tenant had five days to pay the rent or apply for Dispute Resolution or the tenancy would end. The tenant did not apply to dispute the Notice to End Tenancy within five days.

The tenant stated that he vacated the rental unit as of June 15th or 16th, 2009. The landlord stated that they did not become aware that the tenant had vacated until early July 2009.

The landlord is seeking a monetary claim due to unpaid rent for the sum of \$1,530.00 comprises of outstanding rent of \$80.00 from April 2009, \$725.00 outstanding rent for May 2009 and \$725.00 outstanding rent for June 2009.

The tenant disputes the landlord's application and argued that there was significant loss of services in the rental unit for which the tenant believed that he could withhold his rent. I indicated to the tenant that these submissions were not relevant to this application as it was the landlord's application and the tenant has not filed an application to pursue his claims.

Analysis

I grant the landlord's application. I accept that the tenant was served with a 10 day Notice to End Tenancy due to Unpaid Rent. The notice is deemed to have been received by the tenant on June 8, 2009 and the effective date of the notice is amended to June 18, 2009 pursuant to section 53 of the *Act*. I accept the evidence before me that the tenant has failed to pay the rent owed in full within the 5 days granted under section 46 (4) of the *Act*.

I do not accept the tenant's submissions respecting why the rent was not paid. The tenant's arguments are not relevant as the tenancy has ended and section 26 of the *Act* prohibits the tenant from withholding rent even if the landlord is in breach of the tenancy agreement or the *Act*. The tenant is at liberty to file an application to pursue his claims.

I find that the landlord is entitled to monetary compensation pursuant section 67 in the amount of **\$1,580.00** comprised of \$1,530.00 rent owed and the \$50.00 fee paid by the Landlord for this application. I order that the landlord may retain the deposit and interest held of \$364.94 in partial satisfaction of the claim and grant an order for the balance due of **\$1,215.06**. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

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*. I have accepted the landlord's application for a monetary claim due to the tenant's breach of the tenancy agreement.

Dated: July 30, 2009.

Dispute Resolution Officer