



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This re-convened hearing was scheduled pursuant to a decision under the Direct Request Proceeding to deal with the landlord's request for an Order of Possession for unpaid rent, a Monetary Order for unpaid rent, loss of rent, retention of the security deposit and recovery of the filing fee. The tenant did not appear at the hearing. The landlord provided evidence that the landlord served the tenant with notification of today's hearing by registered mail addressed to the tenant at the rental unit on June 17, 2009. The landlord affirmed that the tenant was living at the rental unit when the registered mail was sent. The registered mail was unclaimed by the tenant; however, I was satisfied that the landlord served the tenant with notification of this hearing in accordance with the requirements of the Act and I proceeded to hear from the landlord.

The landlord testified that the tenant vacated the rental unit on July 18, 2009 and left the keys in the rental unit. The landlord has regained possession of the rental unit and no longer requires an Order of Possession.

The landlord amended his monetary claim to include loss of rent up to and including the month of July 2009. As I am satisfied the tenant had use and occupation of the rental unit during the month of July 2009 I do not find the tenant prejudiced by the landlord's amendment request and I agree to amend the landlord's application.

Issues(s) to be Decided

1. Is the landlord entitled to unpaid rent and loss of rent, and if so, the amount?
2. Retention of the security deposit.
3. Award of the filing fee.

Background and Evidence

Upon review of the documentation and the landlord's undisputed testimony I make the following findings. The tenancy commenced July 1, 2008. The tenant was required to pay rent of \$850.00 on the 1st day of the month and had paid a \$850.00 security deposit on July 1, 2008. The tenant's April 2009 rent cheque was returned for insufficient funds. On May 20, 2009 the landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent



Dispute Resolution Services

Page: 2

Residential Tenancy Branch
Ministry of Housing and Social Development

and posted it on the rental unit door. The tenant did not pay the outstanding rent or dispute the Notice.

The landlord's amended claim includes unpaid rent for April and May 2009 and loss of rent for June and July 2009 for a total amount of \$3,400.00.

Analysis

As the landlord has regained possession of the rental unit the landlord no longer requires an Order of Possession and I do not provide one with this decision.

The landlord has provided sufficient evidence to establish an entitlement to recover unpaid rent and loss of rent from the tenant for the months of April 2009 through July 2009. Therefore, I award the landlord \$3,400.00 and I authorize the landlord to retain the tenant's security deposit and interest of \$856.41 in partial satisfaction of this award. I also award the filing fee to the landlord for the cost of filing this application. In light of the above findings, I provide the landlord with a Monetary Order calculated as follows:

Unpaid rent and loss of rent April – July 2009	\$ 3,400.00
Less: retention of security deposit and interest	(856.41)
Filing fee	50.00
Monetary Order	<u>\$ 2,593.59</u>

The landlord must serve the Monetary Order upon the tenant and may file it in Provincial Court (Small Claims) to enforce as an Order of that court.

Conclusion

The landlord no longer requires an Order of Possession and one is not provided with this decision.

The landlord is authorized to retain the tenant's security deposit and interest in partial satisfaction of the rent owed the landlord and the landlord is provided a Monetary Order for the balance owing of \$2,593.59.

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: July 22, 2009.

Dispute Resolution Officer