

Dispute Resolution Services

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

DECISION AND REASONS

Dispute Codes: OPR, MNR

Introduction

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for an order of possession and a monetary order for unpaid rent. At the start of the hearing the landlord requested that his application be amended to include the recovery of the filing fee and to retain the security deposit in partial satisfaction of his monetary claim.

The notice of hearing dated July 02, 2009 was served on the tenant on July 03, 2009, in person. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord called into the conference call hearing and was given full opportunity to present evidence and make submissions

The tenant moved out on August 01, 2009. Since the tenant has moved out, the landlord withdrew his application for an order of possession. Therefore, this hearing only dealt with the landlord's monetary claim for unpaid rent, the filing fee and to retain the security deposit.

Issues to be decided

Is the landlord entitled to a monetary order to recover unpaid rent, the filing fee and retain the security deposit?

Background and Evidence

The landlord testified that the tenancy started on January 01, 2009. The monthly rent was \$1,425.00 due in advance on the first of each month. The tenant paid a security deposit in the amount of \$712.50.

The tenant failed to pay rent on May 01, 2009 and on May 04, 2009 the landlord served the tenant with a ten day notice to end tenancy. The tenant moved out on August 01, 2009 without paying rent for May, June and July. The landlord is claiming \$ 4,350.00 for the outstanding rent and \$50.00 for the filing fee.

Analysis

Based on the undisputed sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. Section 26 of the *Residential Tenancy Act*, states that a tenant must pay rent when it is due under the tenancy agreement. In the absence of evidence to the contrary, I find that the tenant owes rent for the months of May, June and July in the amount of \$4,350.00. The landlord has proven his case and is therefore also entitled to the recovery of the filing fee in the amount of \$50.00.

The landlord has established a total claim of \$4,400.00. I order that the landlord retain the security deposit of \$387.50 and accrued interest of \$0.03 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$3,687.47. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord a monetary order for **\$3,687.47**.

Dated August 19, 2009.

Dispute Resolution Officer