



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession, a Monetary Order to recover unpaid rent, an Order to keep all or part of the security deposit and a Monetary Order to recover the filing fee. At the outset of the hearing the landlord confirmed that the tenant has moved out of the rental unit and therefore they withdraw their application for an Order of Possession.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Residential Tenancy Act*(Act), sent via registered mail on August 11, 2009. Mail receipt numbers were provided in the landlord's documentary evidence. The tenant was deemed to be served the hearing documents on August 17, 2009 as August 16, 2009 fell on a Sunday. This is the fifth day after they were mailed as per section 90(a) of the Act.

The landlord appeared, gave affirmed testimony, was provided the opportunity to present their evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

- Are there arrears of rent and if so, how much?
- Is the landlord entitled to keep all or part of the security deposit and interest?
- Whether the landlord is entitled to a Monetary Order to recover the rent arrears and filing fee?



Dispute Resolution Services

Page: 2

Residential Tenancy Branch
Ministry of Housing and Social Development

Background and Evidence

This tenancy started on December 01, 2006. It was a month to month tenancy and rent started at \$500.00 and rose to \$550.00 by the end of the tenancy. The tenant paid a security deposit of \$250.00 on December 01, 2006.

The landlord claims that the tenant failed to pay her rent for August, 2009 and a 10 Day Notice to End Tenancy for unpaid rent was served on the tenant on August 02. This was posted to the tenants' door and stated that the tenant had five days to pay the outstanding rent, apply for dispute resolution or the tenancy would end on August 12, 2009. The tenant did not pay the rent or make an application to dispute the Notice.

The tenant moved from the rental unit on August 24, 2009 and did not provide the landlord with a forwarding address.

Analysis

In the absence of any evidence from the tenant, I find that the landlord was premature in filing her application for Dispute Resolution as she filed this on August 10, 2009 and the Notice to End Tenancy would not have taken effect until August 15, 2009. As the Notice was posted to the tenants' door it was deemed to have been served three days after posting. However, as the tenant has since left the rental unit and has not paid the outstanding rent since the Notice was issued I find the landlord is entitled to recover the rent owed for August, 2009 of \$550.00 pursuant to section 67 of the *Act*.

I order the landlord pursuant to section 38(4) of the *Act* to keep the tenant's security deposit in partial payment of the rent arrears. As the landlord has been successful in this matter, they are also entitled to recover the \$50.00 filing fee for this proceeding pursuant to section 72(1) of the *Act*. The landlord will receive a monetary order for the balance owing as follows:



Dispute Resolution Services

Page: 3

Residential Tenancy Branch
Ministry of Housing and Social Development

Outstanding rent for August, 2009	\$550.00
Less security deposit and accrued interest	(-\$257.67)
Total amount due to landlord	\$342.33

Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$342.33**. The order must be served on the respondent and is enforceable through the Provincial Court as an order of that Court.

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: September 24, 2009.

Dispute Resolution Officer