



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

OPR, MNR, FF

Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

The Agent for the Landlord stated that On October 23, 2009 copies of the Application for Dispute Resolution and Notice of Hearing were sent to the Tenant via registered mail at the address noted on the Application. The landlord testified that the occupants in the lower unit of the rental house told him that the tenant moved out on October 1, 2009. The landlord stated he went to the rental unit on October 3, 2009 and confirmed the tenant had moved. The landlord provided a copy of a Canada Post tracking number as evidence of service.

These documents are deemed to have been served in accordance with section 89 of the *Act*, however the Tenant did not appear at the hearing.

Preliminary Matter

As the tenant has now moved out of the rental unit the landlord withdrew the portion of his application requesting an Order of possession.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to a monetary Order for unpaid rent and utilities and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenancy agreement requires the Tenant to pay monthly rent of 1,200.00. The Tenant paid a security deposit of \$600.00 on March 9, 2009. The landlord testified that the tenant shared the gas and hydro costs on a fifty percent basis and that she had previously paid the bills. The landlord submitted copies of a hydro bill for the period June 19 to August 19, 2009 indicating the tenant owed \$51.36 and a natural gas bill for the period of July 20 to August 19, 2009 indicating the tenant owed \$13.44.



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The landlord provided a copy of the September rent cheque indicating that the tenant placed a stop payment on this \$1,200.00 payment. The landlord is claiming October rent as the tenant was to have moved out by the effective date of a 10 Day Notice to End Tenancy for Unpaid Rent issued to the tenant and served on September 11, 2009. The Notice had an effective vacancy date of September 20, 2009.

The landlord testified that he was unable to locate new renters for October 1, 2009 as the tenant did not move and has left the rental unit in a state that was not immediately suitable for new tenants.

Analysis

In the absence of evidence to the contrary, I find that the Tenant has not paid rent in the amount of \$2,400.00 for September and October 2009, and that the Landlord is entitled to compensation in that amount. The tenant failed to vacate the rental unit by the effective date of the Notice to end tenancy and remained in the rental unit until October 1, 2009; rendering the rental unit unavailable for possession by a new occupant.

I find that the landlord is entitled to compensation in the sum of \$67.78 for unpaid utility charges owed by the tenant.

I find that the Landlords application has merit, and I find that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$2,517.78, which is comprised of unpaid rent in the sum of \$2,400.00, utilities in the sum of \$67.78 and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution.

The landlord has not applied to retain any deposit paid by the tenant. Any deposit paid is held in trust by the landlord and must be disbursed as determined by section 38 of the Act.

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: November 05, 2009.

Dispute Resolution Officer