



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 an Application for Dispute Resolution by the landlord for a Monetary Order for unpaid rent, an Order to keep all or part of the security deposit and to recover the cost of the filing fee. At the outset of the hearing the landlord withdrew his application for an Order of Possession as the tenant has now moved out of the rental property.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on October 22, 2009. Mail receipt numbers were provided in the landlords' documentary evidence. The tracking information shows the tenant signed for this package on October 26, 2009.

The landlord appeared, gave affirmed testimony, and was provided the opportunity to present his 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 unpaid rent and filing fee?

Background and Evidence

This tenancy started on February 20, 2009 and ended on November 01, 2009. This was a fixed term tenancy which was due to end on February 28, 2010. Rent was \$850.00 per month due on the 1st of each month. The tenant paid a security deposit of \$425.00 on February 06, 2009.



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The tenant paid rent for September by cheque however the cheque was returned for insufficient funds. The tenant gave the landlord \$400.00 towards September's rent and the balance of \$450.00 remains unpaid. The tenant did not pay rent for October, 2009 when it was due. The landlord issued a 10 Day Notice to End the Tenancy for unpaid rent on October 02, 2009 the amount of rent arrears indicated on the notice are for \$1,100.00. This was posted to the tenants' door and was deemed to have been served three days after posting. The tenant had five days to either pay the outstanding rent or apply for Dispute Resolution or the tenancy would end on October 12, 2009. The tenant did not pay the outstanding rent or dispute the Notice within five days and moved from the rental unit on or about November 01, 2009. The landlord requests a Monetary Order for the rent arrears.

The landlord has applied to retain the tenants' security deposit in partial payment towards the rent arrears.

Analysis

The tenant did not appear at the hearing, despite having been sent a Notice of the hearing; therefore, in the absence of any evidence from the tenant, I find that the landlord is entitled to recover rent arrears. The landlord has stated that the tenant owes rent for September, 2009 of \$450.00 and for October, 2009 of \$850.00 to a total amount of \$1,300.00. However, the sum the landlord has stated on the 10 Day Notice to End Tenancy issued on October 02, 2009 is for rent arrears totaling \$1,100.00. Therefore, with no other evidence to support the landlords' testimony that the tenant owes \$1,300.00 the landlord is entitled to recover \$1,100.00 only pursuant to s. 67 of the *Act*.

The landlord has applied to keep the tenants' security deposit of \$425.00 in partial payment of the rent arrears owed by the tenant. **I Order** the landlord to retain the tenants' security deposit in partial payment of the rent arrears.



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As the landlord has been successful in this matter, he is also entitled to recover the **\$50.00** filing fee for this proceeding pursuant to s. 72(1) of the *Act*. A monetary Order has been issued to the landlord for the following amount:

Rent arrears for September and October, 2009	\$1,100.00
Less security deposit and accrued interest	(-\$425.00)
Total amount due to the landlord	\$725.00

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 **\$725.00**. 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: December 04, 2009.

Dispute Resolution Officer