

DECISION

Dispute Codes OPR MNR FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain an Order of Possession for unpaid rent, a Monetary Order for unpaid rent, and to recover the cost of the filing fee from the Tenant for this application.

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 January 22, 2010. Mail receipt numbers were provided in the Landlord's testimony and the Landlord confirmed that she had checked the Canada Post website and the Tenant picked up the registered mail on January 28, 2010.

The Landlord appeared and was provided the opportunity to present her evidence orally, in writing, and in documentary form.

Issues(s) to be Decided

Is the Landlord entitled to an Order of Possession for unpaid rent under section 55 of the *Residential Tenancy Act*?

Is the Landlord entitled to a Monetary Order for unpaid rent under section 67 of the *Residential Tenancy Act*?

Background and Evidence

The month to month tenancy began on September 5, 2009 and ended on approximately January 28, 2010. Rent was payable in the amount of \$362.00 per month and the Tenant did not pay a security deposit.

The Landlord testified that the tenancy ended after the Tenant was served on December 17, 2009 with a 1 Month Notice to End Tenancy for cause and a 10 Day Notice to End Tenancy for unpaid rent was served in person to the Tenant on January 11, 2010 at 4:19 p.m.

The Landlord has withdrawn her request for an Order of Possession as she has regained possession of the rental unit.

The Landlord is seeking a monetary order for the January 2010 unpaid rent of \$362.00 plus the \$50.00 filing fee.

Analysis

All of the testimony and documentary evidence was carefully considered.

I find that in order to justify payment of damages or losses under section 67 of the *Act*, the Applicant landlord would be required to prove that the other party did not comply with the *Act* and that this non-compliance resulted in costs or losses to the Applicant pursuant to section 7.

In this instance, the burden of proof is on the landlord to prove the existence of the damage/loss and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the tenant.

The Landlord claims for unpaid rent of \$362.00 for January 2010, pursuant to section 26 of the *Act* which stipulates a tenant must pay rent when it is due. I find that the Tenant has failed to comply with a standard term of the tenancy agreement which stipulates that rent is due monthly on the first of each month. The Landlord has proven the test for damage or loss as listed above and I hereby approve their claim for \$362.00 in unpaid rent.

I find that the Landlord has been successful with her application therefore I award recovery of the \$50.00 filing fee.

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 **\$412.00** (\$362.00 plus \$50.00). The order must be served on the respondent Tenant 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: March 08, 2010.

Dispute Resolution Officer