

DECISION

Dispute Codes OPR MNR MNSD MNDC FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord seeking an Order of Possession for unpaid rent and a Monetary Order for unpaid rent, money owed for damage or loss under the Act, to keep the security deposit in partial satisfaction of the claim, and to recover the cost of the filing fee from the Tenant for this application.

Issue(s) to be Decided

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

Is the Landlord entitled to a Monetary Order a) for unpaid rent, and b) for money owed for damage or loss under the Act, and c) to keep the security deposit in partial satisfaction of the claim, and d) to recover the cost of the filing fee from the Tenant for this application pursuant to sections 38, 67, and 72 of the *Residential Tenancy Act*?

Background and Evidence

The Landlord testified that the Tenant began to make payments towards her rental arrears in February 2010 and on April 1, 2010 the Tenant's rent and late payment fees were paid in full and the tenancy agreement was reinstated.

The Landlord is seeking a monetary order to recover the \$50.00 filing fee from the Tenant and argued the Landlord suffered this loss as a result of the Tenant's breach of non- payment of rent.

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 Tenants.

The Landlord is seeking recovery of the \$50.00 filing fee, an amount paid to initiate a request for an Order of Possession and a Monetary Order after the Tenant failed to pay her rent in contravention of section 26 of the *Act* which stipulates a tenant must pay rent when it is due. The Tenant failed to comply with a standard term of the tenancy agreement which stipulates that rent is due monthly on the first of each month, which caused the Landlord to suffer the cost of bringing this matter to dispute resolution.

Although the issue between the parties was resolved prior to today's hearing one could argue the matter would not have been resolved had the Landlord not initiated their application for dispute resolution. Based on the aforementioned I find the Landlord's loss is directly related to the Tenant's breach and I hereby award the Landlord recovery of the \$50.00 filing fee.

Conclusion

A copy of the Landlord's decision will be accompanied by a Monetary Order for \$50.00. The order must be served on the 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: April 09, 2010.

Dispute Resolution Officer