



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 the landlord's Application for Dispute Resolution for an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord's agent. The tenant did not attend.

The landlord's agent testified the tenant was served with the notice of this hearing on June 16, 2010 via registered mail. I am satisfied the tenant was served in sufficiently for the purposes of this hearing.

The landlord also stated the tenant has vacated the rental unit and that he has paid the rent owing. The landlord's application is subsequently amended to exclude the matters of outstanding rent and an order of possession but includes recovery of the late fee charged to the tenant and the filing fee for this hearing.

Issues(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for late fees; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord submitted a copy of a tenancy agreement signed by the parties on November 17, 2009 for a 6 month fixed term tenancy starting on December 1, 2009 converting to a month to month tenancy on June 1, 2010 for a monthly rent of \$675.00 due on the 1st of the month, with a security deposit of \$337.50. The tenancy agreement also stipulates that late payments, returned and non-sufficient fund cheques (N.S.F.) are subject to a minimum service charge of \$25.00.

The landlord also submitted a copy of a 10 Day Notice to End Tenancy for Unpaid Rent issued on June 2, 2010 and served on the tenant on June 2, 2010 personally at 10:00 p.m. for unpaid rent in the amount of \$337.50. The landlord testified that the tenant paid the outstanding rental amount on June 16, 2010 but did not fail the late fees.

The landlord's agent testified that despite receiving the payment for the rent amount and the fact the tenant has vacated the rental unit he still owes for the late charge and the agent requests recovery of the filing fee as per the original application.

Analysis

I find the tenancy agreement contains an enforceable clause requiring the tenant to pay a late payment charge of \$25.00 and as such I find the landlord has provided sufficient evidence to support the claim.

Conclusion

I find that the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$75.00** comprised of \$25.00 late payment fee owed and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct this amount from the security deposit and interest held in the amount of \$337.50 in satisfaction of this claim leaving a balance of the security deposit in the amount of \$262.50.

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: August 06, 2010.

Dispute Resolution Officer