

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend the hearing. The landlord's representative (the landlord) attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that the application for dispute resolution hearing package was sent to the tenant's last known address by registered mail on June 3, 2010. This registered letter was returned to the landlord by Canada Post on June 4, 2010 as there was no such address. The landlord entered into evidence the returned registered letter and a copy of the tenant's provision of this address to the landlord. I am satisfied that the landlord has served his application for dispute resolution to the tenant in accordance with the provisions of the *Act*.

Issues(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent or utilities? Is the landlord entitled to retain the tenant's security deposit in partial satisfaction of the monetary order requested? Is the landlord entitled to recover his filing fee for this application?

Background and Evidence

The landlord testified that this month-to-month tenancy commenced on November 1, 2007. Rent was set at \$1,400.00 per month, payable on the first of the month. The landlord testified that he continued to hold the tenant's \$700.00 security deposit paid on October 9, 2007.

The landlord applied for a monetary order of \$4,500.00 for unpaid rent and utilities. He testified that the tenant did not pay \$400.00 of his April rent and did not pay any of the \$1,400.00 owing for May 2010.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, a Dispute Resolution Officer may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must 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 other party.

I accept the landlord's undisputed testimony that the tenant owes \$1,800.00 in unpaid rent from April and May 2010. I grant a monetary award for this amount in the landlord's favour.

In the Details of the Dispute section of the landlord's application for dispute resolution, the landlord wrote "partitioned basement with extra wall to create an extra wall." However, the landlord did not apply for damage caused to the rental premises by the tenant. The landlord did not provide any photographic evidence or receipts regarding the partition walls noted in his application. I make no order involving damage to the rental premises.

I authorize the landlord to retain the tenant's security deposit plus interest in partial satisfaction of the monetary award. As the landlord's application has been successful, I allow the landlord to recover his filing fee for this application from the tenant.

Conclusion

I allow the landlord's claim for unpaid rent. I allow the landlord to retain the tenant's security deposit plus interest. I allow the landlord to recover his filing fee from the tenant. I grant the landlord a monetary Order in the following terms:

Item	Amount
Unpaid April 2010 Rent	\$400.00
Unpaid May 2010 Rent	1,400.00
Less Security Deposit plus Interest (\$700 plus \$12.96 = \$712.96)	-712.96
Recovery of Filing Fee for this application	50.00
Total Monetary Award	\$1,137.04

The landlord is provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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*.