



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR MNSD MNDC FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Despite having been personally served with the application for dispute resolution and notice of hearing on June 16, 2011, the tenant did not participate in the conference call hearing.

At the outset of the hearing, the landlord stated that the tenant vacated the rental unit on July 8, 2011. Accordingly, I dismissed the portion of the landlord's application regarding an order of possession.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for the amounts claimed?

Background and Evidence

The tenancy began on June 22, 2003. Rent in the amount of \$930 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$375. The tenant failed to pay \$865 of his rent in the month of June 2011 and on June 2, 2011 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The landlord claimed \$865 for unpaid rent for June 2011, and \$25 for a late payment fee. The tenancy agreement states that late payment of rent is subject to a fee of \$50.

Analysis

I accept the landlord's evidence regarding the balance of rent for June 2011, and grant the landlord the amount of \$865 for unpaid rent for June 2011. In regard to the late fee, the Act only permits a maximum fee of \$25 for late payment of rent or NSF fees, and that clause of the tenancy agreement is therefore void. The landlord is not entitled to claim any amount for a late payment fee, and I dismiss that portion of the application.

As the landlord's claim was substantially successful, they are also entitled to recovery of the \$50 filing fee for the cost of their application.

Conclusion

The landlord is entitled to \$865 in unpaid rent and lost revenue, and \$50 for recovery of the filing fee, for a total of \$915. I order that the landlord retain the deposit and interest of \$388.28 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$526.72. This order may be filed in the Small Claims Court and enforced 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: July 11, 2011.

Residential Tenancy Branch