



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR, OPC, MNR, MNDC, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to obtain a Monetary Order for unpaid rent, a Monetary Order for money owed or compensation for damage or loss, an Order to keep the tenants security deposit and to recover the filing fee paid for this application. At the outset of the hearing the landlord attending withdrew the landlord's application for an Order of Possession as the tenant has vacated the rental unit.

Service of the hearing documents, by the landlords to the tenant, was done in accordance with section 89 of the *Act*, and was given to the tenant in person by the landlord attending the hearing on September 02, 2011.

The landlord appeared, gave affirmed testimony, was provided the opportunity to present his evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

- Are the landlords entitled to a Monetary Order to recover unpaid rent?
- Are the landlords entitled to a Monetary Order for money owed or compensation for damage or loss?
- Are the landlords entitled to keep the security deposit?

Background and Evidence

This month to month tenancy started on May 01, 2011. Rent for this unit was \$750.00 per month due on the 1st of each month. The tenant paid a security deposit of \$375.00 on April 16, 2011. The tenant left the rental unit on or about September 22, 2011.

The landlord testifies that the tenant was served with a One Month Notice to End tenancy for cause on August 15, 2011. The landlord testifies the tenant then failed to pay rent for September, 2011. The landlord states the tenant was served with a 10 Day Notice to End Tenancy on September 02, 2011 by posting the Notice to the tenants' door. This Notice states the tenant had five days to pay the outstanding rent or dispute the notice by applying for dispute resolution or the tenancy will end on September 12, 2011. The landlord has applied for a Monetary Order to recover \$750.00 from the tenant for Septembers rent. The landlord also seeks to recover \$750.00 for loss of revenue for October, 2011 as they have been unable to re-rent the unit despite advertising until November 01, 2011.

The landlord seeks an Order to keep the tenants security deposit of \$375.00 and seeks an Order to recover the \$50.00 filing fee.

Analysis

The tenant did not appear at the hearing to dispute the landlords' claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the tenant, I have considered the landlords documentary evidence and affirmed testimony. S. 26 of the *Act* states a tenant must pay rent on the day it is due. The landlords' agent has testified that rent is due on the 1st day of each month and the tenant failed to pay rent for September, 2011. Therefore, I find the landlord is entitled to recover rent arrears of **\$750.00** pursuant to s. 67 of the *Act*.

I further find that the landlord was unable to re-rent the unit for October, 2011. The Residential tenancy Policy Guidelines # 3 states: In a month to month tenancy, if the tenancy is ended by the landlord for non-payment of rent, the landlord may recover any loss

of rent suffered for the next month as a notice given by the tenant during the month would not end the tenancy until the end of the subsequent month. Therefore, I find the landlord is entitled to a Monetary Order for a loss of income for October, 2011 of **\$750.00** pursuant to s. 67 of the *Act*.

I Order the landlord to keep the tenants security deposit of **\$375.00** in partial satisfaction of the rent arrears pursuant to s. 38(4)(b) of the *Act*.

As the landlord has been successful with this claim I find the landlord is entitled to recover the **\$50.00** filing fee from the tenant pursuant to section 72(1) of the *Act*. The landlord will receive a monetary order for the following amount:

Unpaid rent September, 2011	\$750.00
Loss of income for October, 2011	\$750.00
Subtotal	\$1,500.00
Plus filing fee	\$50.00
Less security deposit	(-\$375.00)
Total amount due to the landlord	\$1,175.00

Conclusion

I HEREBY FIND in favor of the landlords' monetary claim. A copy of the landlords' decision will be accompanied by a Monetary Order for **\$1,175.00**. 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: October 03, 2011.

Residential Tenancy Branch