



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 the landlord's application for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent; loss of rent; and authority to retain the security deposit. The tenant did not appear at the hearing. The landlord's agent testified that the hearing package was sent to the tenant via registered mail on September 28, 2011. The tenant did not claim the registered mail and continued to reside in the rental unit until approximately two weeks ago. The landlord's agent provided a registered mail receipt and tracking number as proof of service. Section 90 of the Act deems registered mail to be served five days after mailing, even if the recipient does refuse delivery or does not pick up the mail. Therefore, I was satisfied the tenant was served with the hearing documents and I proceeded to hear from the landlord's agent without the tenant present.

Having heard the rental unit was vacated approximately two weeks ago and the landlord has regained possession of the rental unit, an Order of Possession is no longer required and I do not provide one with this decision.

The landlord's agent also stated during the hearing that a Monetary Order was not necessary as the landlord did not intend to pursue the tenant for the unpaid rent. Rather, the landlord's agent requested authority to retain the security deposit in satisfaction of the rent owed to the landlord.

Issue(s) to be Decided

Is the landlord authorized to retain the security deposit?

Background and Evidence

The tenant paid a \$450.00 security deposit for a tenancy set to commence July 1, 2011 at the monthly rent of \$900.00. The tenant paid \$570.00 towards July 2011 rent but did not pay the balance outstanding for July and or any rent thereafter. The landlord wrote

letters to the tenant to request outstanding rent and issued two 10 Day Notices to End Tenancy for Unpaid Rent.

The landlord provided a written submission, the registered mail receipt, and copies of letters written to tenant and the 10 Day Notice to End Tenancy issued September 16, 2011 as evidence for this proceeding.

Analysis

The Act requires that a tenant pay rent when due in accordance with the tenancy agreement. The definition of tenancy agreement includes oral agreements. Based upon the undisputed evidence of the landlord I am satisfied the tenant was required to pay rent of \$900.00 every month. I also accept the landlord's submission that the tenant resided in the rental unit during the months of July, August, September and October 2011 and only paid the landlord \$570.00 for rent.

In light of the above I am satisfied that the tenant owes the landlord \$3,030.00 in unpaid and loss of rent; however, in recognition of the landlord's request during the hearing, I do not provide the landlord a Monetary Order. Rather, I grant the landlord's request to retain the tenant's security deposit in resolution of this application.

Conclusion

The landlord has been authorized to retain the tenant's security deposit in satisfaction of rent owed to the landlord.

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 26, 2011.

Residential Tenancy Branch