



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR MNSD FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain an Order of Possession for unpaid rent and a Monetary Order for unpaid rent, to keep the security deposit, and to recover the cost of the filing fee.

Service of the hearing documents, by the Landlord to the Tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on October 28, 2011. Mail receipt numbers were provided in the Landlord's evidence. Based on the Landlord's submission I find the Tenant was served notice of this proceeding in accordance with the *Act*.

The Landlord appeared at the teleconference hearing, gave affirmed testimony, was provided the opportunity to present their evidence orally, in writing, and in documentary form.

Issue(s) to be Decided

1. Has the Tenant breached the *Residential Tenancy Act*, regulation, or tenancy agreement?
2. If so, has the Landlord met the burden of proof to obtain an Order of Possession and a Monetary Order pursuant to sections 55 and 67 of the *Residential Tenancy Act*?

Background and Evidence

The parties entered into a fixed term tenancy that began on March 1, 2005 and switch to a month to month tenancy after August 31, 2005. Rent is payable on the first of each month in the amount of \$930.00 and on February 3, 2005 the Tenant paid \$400.00 as the security deposit.

The Landlord affirmed that when the Tenant failed to pay the October 1, 2011 rent a 10 Day Notice was posted to the Tenant's door on October 19, 2011. The Tenant has

since paid his October rent in full and paid his November 1, 2011 on time. The Landlord has reinstated the tenancy and wishes to only seek to recover the \$50.00 filing fee.

Analysis

I find that in order to justify payment of damages or losses under section 67 of the *Act*, the Applicant Landlord would be required to prove that the other party did not comply with the *Act* and that this non-compliance resulted in costs or losses to the Applicant pursuant to section 7.

Section 26 of the *Act* stipulates that a tenant must pay rent when it is due in accordance with the tenancy agreement.

The evidence supports that when the Tenant failed to pay his rent, in breach of section 26 of the *Act*, the Landlord took action to mitigate his losses and paid to make application for dispute resolution. Even though the parties have since agreed to reinstate the tenancy, it was the Tenant's breach that caused the Landlord to suffer a loss of \$50.00 for the filing fee. Accordingly I award the Landlord recovery of the \$50.00 filing fee.

Conclusion

The Landlord's decision will be accompanied by a Monetary Order in the amount of **\$50.00**. This Order is legally binding and must be served upon the Tenant.

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: November 21, 2011.

Residential Tenancy Branch