



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 by the Landlord pursuant to the *Residential Tenancy Act* for an order of possession and a monetary order for unpaid rent, late and NSF fees and the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of her monetary claim.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Since the tenant moved out on November 13, 2011, the landlord withdrew her application for an order of possession. Therefore, this hearing only dealt with the landlord's monetary claim for loss of income, unpaid rent, the filing fee and to retain the security deposit.

Issues to be decided

Is the landlord entitled to a monetary order to recover unpaid rent, late and NSF fees and the filing fee? Is the landlord entitled to retain the security deposit?

Background and Evidence

The landlord testified that the tenancy started on October 01, 2011. The monthly rent was \$1,100 payable in advance on the first of each month. The tenant paid a security deposit in the amount of \$550.00.

The landlord stated that the tenant did not pay rent for November 2011. The tenant agreed that she owed rent for the month of November.

The landlord is claiming rent for November, late fees, NSF fees and the filing fee. The landlord is also applying to retain the security deposit in partial satisfaction of his claim.

Analysis

Section 26 of the *Residential Tenancy Act*, states that a tenant must pay rent when it is due under the tenancy agreement. The tenant agreed that she owed rent in the amount of \$1,100.00. Therefore I find that the landlord is entitled to this amount.

The landlord did not file a copy of the tenancy agreement to confirm that it contained a clause regarding late and NSF fees. The tenant stated that despite her requests, she was not provided with a copy of the tenancy agreement. Therefore, I will dismiss the landlord's claim for late and NSF fees.

Since the landlord has proven her case, she is also entitled to the filing fee of \$50.00.

Overall the landlord has established a claim of \$1,150.00. I order that the landlord retain the security deposit of \$550.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$600.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord a monetary order for **\$600.00**.

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 30, 2011.

Residential Tenancy Branch