



Dispute Resolution Services

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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 pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 11:11 a.m. in order to enable her to connect with this hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that she handed the tenant the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on December 6, 2011. The landlord entered into written evidence a copy of a witnessed statement attesting to her handing a copy of the landlord's dispute resolution hearing package to the tenant on December 20, 2011. I am satisfied that these documents were served to the tenant in accordance with the *Act*.

At the commencement of the hearing, the landlord testified that the tenant vacated the rental unit on December 19, 2011. Consequently, the landlord withdrew the application for an Order of Possession. She also revised the requested amount of the monetary award from \$1,775.00 to \$1,379.95 as the landlord has pro-rated the tenant's rent for that portion of December 2011 when she occupied the rental unit. I agreed to both of these requested amendments to the landlord's application.

Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent and losses arising out of this tenancy? Is the landlord entitled to retain all or a portion of the tenant's security deposit

in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

This six-month fixed term tenancy commenced on October 1, 2011. Monthly rent was set at \$1,150.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$575.00 security deposit paid on July 25, 2011.

The landlord's revised application for a monetary award of \$1,379.95 included the following items:

Item	Amount
Pro-Rated Rent Owing from December 2011	\$754.92
Liquidated Damages	575.00
NSF Fee	50.00
Total Monetary Award Requested	\$1,379.92

The landlord testified that the tenant has not paid any portion of the amount identified as owing in the 10 Day Notice. The landlord testified that the rental unit remains unrented.

Analysis

Based on the undisputed evidence provided by the landlord, I find that the landlord is entitled to a monetary award for the items outlined above. I am satisfied that the landlord's claim for liquidated damages and the NSF fee are part of the residential tenancy agreement for this tenancy which was to have been in place until March 31, 2012.

I allow the landlord to retain the tenant's security deposit plus applicable interest in partial satisfaction of the monetary award issued in this decision. No interest is payable over this period. As the landlord has been successful in this application, I allow the landlord to recover the \$50.00 filing fee from the tenant.

Conclusion

I issue a monetary Order in the landlord's favour in the following terms which allows the landlord to recover unpaid rent, losses arising out of this tenancy and the filing fee for this application, and to retain the tenant's security deposit:

Item	Amount
Pro-Rated Rent Owing from December 2011	\$754.92
Liquidated Damages	575.00
NSF Fee	50.00
Less Security Deposit	-575.00
Filing Fee	50.00
Total Monetary Order	\$854.92

The landlord is provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: January 06, 2012

Residential Tenancy Branch