



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, 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; 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 1:15 p.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 1:00 p.m. The landlord's property manager (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 he handed the tenant the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on April 21, 2012. He entered into written evidence a Proof of Service document in which the tenant confirmed in writing that the landlord handed him the 10 Day Notice at 1:45 p.m. on April 21, 2012. The landlord testified that he sent the tenant a copy of the landlord's dispute resolution hearing package by registered mail on May 3, 2012. He provided the Canada Post Tracking Number to confirm this mailing. He also said that he handed the tenant a second copy of the dispute resolution hearing package approximately 5 days after he mailed the package to the tenant. I am satisfied that the landlord served the above documents to the tenant in accordance with the *Act*.

At the commencement of the hearing, the landlord testified that the tenant vacated the rental unit by May 19, 2012. For that reason, the landlord said that he now has possession of the rental unit and withdrew the application for an Order of Possession.

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 recover the filing fee for this application from the tenant?

Background and Evidence

This tenancy commenced as a six-month fixed term tenancy on June 1, 2011. At the expiration of the initial term, the tenancy converted to a periodic tenancy. Monthly rent was set at \$1,000.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$500.00 security deposit paid on May 25, 2011.

The landlord's application for a monetary award of \$2,000.00 included unpaid rent of \$1,000.00 for both April and May 2012. The landlord testified that the tenant did not pay anything towards his unpaid rent after receiving the 10 Day Notice. The landlord testified that the rental unit was not left in a condition whereby he could advertise it for re-rental in May 2012. After cleaning the premises and commencing repairs, he is trying to rent the premises for June 2012.

Analysis

Based on the undisputed evidence before me, I find that the landlord is entitled to a monetary award of \$1,000.00 for unpaid rent for both April and May 2012.

Although the landlord's application does not seek to retain the tenant's security deposit, using the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the security deposit in partial satisfaction of the monetary award. As the landlord was successful in this application, I find that the landlord is entitled to recover the \$50.00 filing fee paid for this application.

Conclusion

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

Item	Amount
Unpaid April 2012 Rent	\$1,000.00
Unpaid May 2012 Rent	1,000.00
Less Security Deposit	-500.00
Recovery of Filing Fee for this application	50.00
Total Monetary Order	\$1,550.00

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.

The landlord's application for an Order of Possession is withdrawn.

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: May 25, 2012

Residential Tenancy Branch