



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 an Application for Dispute Resolution by the Landlord to obtain an Order of Possession for unpaid rent and a Monetary Order for unpaid rent or utilities, for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, and to recover the cost of the filing fee from the Tenant for this application.

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 May 11, 2012. Mail receipt numbers were provided in the Landlord's evidence. Based on the Landlord's submissions I find the Tenant to have been sufficiently served notice of this proceeding.

The Landlord appeared at the teleconference hearing and gave affirmed testimony. A summary of the testimony is provided below and includes only that which is relevant to the matters before me. No one appeared on behalf of the Tenant despite him being served notice of this proceeding in accordance with the *Act*.

Issue(s) to be Decided

1. Has a valid 10 Day Notice been issued and served upon the Tenant?
2. Have the Landlords regained possession of the unit?
3. Are the Landlords entitled to a Monetary Order for unpaid rent?

Background and Evidence

The Landlord affirmed that they entered into a written fixed term tenancy that began on January 1, 2011 and switched to a month to month tenancy agreement after one year. Rent is payable on the first of each month in the amount of \$820.00 and on December 26, 2010, the Tenant paid \$410.00 as the security deposit and \$410.00 as the pet deposit.

The Landlord confirmed the 10 Day Notice was served in person to the Tenant on May 2, 2012 as per their evidence which included a copy of the Notice for unpaid rent due May 1, 2012.

The Landlord submitted that the Tenant vacated the property as of May 27, 2012 and returned the keys to a tenant in another unit which he was friends with. He said he was leaving the country and has left furniture and possessions inside the unit.

The Landlord acknowledged that she would need to treat the unit and possessions as being abandoned in accordance with the regulations and was seeking to keep the security and pet deposits to offset the unpaid rent.

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.

The Tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, May 12, 2012, and was required to vacate the rental unit to which the notice relates pursuant to section 46(5) of the *Act*.

The Tenant vacated the unit May 27, 2012 leaving abandoned possessions inside. The Landlord withdrew her request for an Order of Possession as she has regained possession of the unit.

The Landlord claims for unpaid rent of \$820.00 for May 2012, pursuant to section 26 of the *Act* which provides that a tenant must pay rent when it is due in accordance with the tenancy agreement. I find the Landlords have met the burden of proof and I award them a monetary claim of **\$820.00** for May 2012 unpaid rent.

The Landlords have succeeded with their application; therefore I award recovery of the **\$50.00** filing fee.

Monetary Order – I find that the Landlords are entitled to a monetary claim and that this claim meets the criteria under section 72(2)(b) of the *Act* to be offset against the Tenant's security deposit plus interest as follows:

Unpaid rent for May 2012	\$ 820.00
Filing Fee	<u>50.00</u>
SUBTOTAL	\$ 870.00
LESS: Security Deposit \$410.00	- 410.00
Deposit \$ 410.00	- 410.00
Interest on Deposits of \$0.00	<u>- 0.00</u>
Offset amount due to the Landlord	<u>\$ 50.00</u>

Conclusion

The Landlords have been awarded a Monetary Order for **\$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: May 31, 2012.

Residential Tenancy Branch