



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 the landlord's Application for Dispute Resolution seeking an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by two agents for the landlord. The tenant did not attend.

The landlord provided documentary evidence and testified the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by registered mail on June 8, 2012 in accordance with Section 89. As per Section 90, the documents are deemed received by the tenant on the 5th day after it was mailed.

Based on the testimony of the landlord, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

At the outset of the hearing the landlord's agent testified the landlord no longer sought an order of possession and as such, I amended the Application to exclude matters of possession.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent and late fees; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord testified the tenancy began in February 2008 and is a month to month tenancy with a current rent of \$1,130.00 due on the 1st of each month with a security deposit of \$525.00 paid on February 7, 2008. A copy of the tenancy agreement was not submitted into evidence.

The landlord testified the tenant has failed to pay the full rent for the months of May and June 2012, specifically the tenant has paid only \$295.00 towards rent for the month of

May 2012 and nothing for June 2012. The landlord seeks a monetary order for rent in the amount of \$1,965.00 plus a late fee of \$25.00.

Analysis

Based on the undisputed verbal testimony of the landlord I accept the tenant has failed to pay the full rent for the months of May and June 2012 in the amounts claimed. However, as the landlord has failed to provide a copy of the tenancy agreement I find the landlord has failed to provide evidence that a late fee is noted in the tenancy agreement, as is required in order to charge a late fee. For this reason, I dismiss the landlord's claim for late fees.

Conclusion

I find the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$2,015.00** comprised of \$1,965.00 rent owed and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$532.08 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$1,482.92**.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be enforced as an order 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: June 26, 2012.

Residential Tenancy Branch