



Dispute Resolution Services

Page: 1

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 an Order of Possession for unpaid rent and a Monetary Order for unpaid rent, a by-law fine, and authorization to retain the security deposit. Only the landlord appeared at the hearing.

The landlord identified two tenants in filing this application. The landlord testified that on June 13, 2012 he sent one registered mail package to both named tenants using the rental unit address. The registered mail was unclaimed. The landlord subsequently learned the male tenant had not been residing at the rental unit when the registered mail was sent. The female tenant vacated the rental unit on June 14, 2012. Concerned the female tenant would not receive the registered mail package before vacating the unit the landlord made a copy of the hearing package and personally served it upon the female tenant at the rental unit on June 14, 2012.

The Act provides that each respondent must be served with the Application for Dispute Resolution and the permissible methods of service. Where registered mail is used to serve a monetary claim, the registered mail must be sent to each tenant at the address at which the tenant resides or the tenant's forwarding address. Sending one registered mail package to two or more tenants is not sufficient service.

In this case, I find the male tenant was not sufficiently served with notice of the landlord's claims as the landlord sent only one registered mail package to two named tenants and the male tenant was no longer residing at the rental unit when the mail was sent. However, I was satisfied the female tenant was sufficiently served by way of personal service on June 14, 2012. Accordingly, I proceed to consider the landlord's claims against the female tenant and I have amended the application to exclude the male tenant.

Having heard the tenants have vacated the unit and the landlord has regained possession of the rental unit an Order of Possession is no longer required and I do not provide one with this decision.

Issue(s) to be Decided

1. Has the landlord established an entitlement to a Monetary Order for unpaid rent?
2. Has the landlord established an entitlement to recover a by-law fine from the tenant?
3. Is the landlord authorized to retain the security deposit?

Background and Evidence

The tenancy commenced November 25, 2011 and the tenants paid a \$500.00 security deposit. The tenants were required to pay rent of \$950.00 on the 25th day of every month pursuant to their written tenancy agreement. The tenants failed to pay rent on May 25, 2012 and on June 2, 2012 the landlord posted a 10 Day notice to End Tenancy for Unpaid Rent (the Notice) indicating rent of \$950.00 was outstanding as of May 25, 2012 and \$50.00 for utilities. The tenants did not pay the outstanding rent and did not dispute the Notice.

The landlord explained the \$50.00 that appears on the Notice for “utilities” was actually the unpaid balance of a by-law fine the landlord paid to the strata corporation because of the tenants’ conduct.

The landlord is seeking to recover \$1,000.00 from the tenants for the unpaid rent and by-law fine.

During the hearing, the landlord stated there was also damage to the rental unit and requested he be permitted to amend the application. As the tenant(s) have not been put on notice that the landlord wishes to claim other damages or loss against them I did not permit an amended claim. Rather, I informed the landlord of his right to make a future Application for Dispute Resolution if he wishes pursue such damages or loss.

Analysis

Based upon the undisputed evidence before me, I accept that the tenants failed to pay rent of \$950.00 when due on May 25, 2012 and the landlord is entitled to recover that amount.

I find the evidence before me insufficient to show the landlord has incurred or paid a by-law fine as a result of the tenants’ conduct and that portion of the landlord’s claim is dismissed.

I award the \$50.00 filing fee to the landlord as the landlord was largely successful with this application. I authorize the landlord to retain the security deposit in partial satisfaction of the rent owed to the landlord.

In light of the above, the landlord is provided a Monetary Order in the amount of \$500.00 [\$950.00 rent + \$50.00 filing fee – \$500.00 security deposit] to serve upon the tenant and enforce as necessary.

Conclusion

The landlord has been authorized to retain the security deposit and has been provided a Monetary Order in the amount of \$500.00 to serve upon the female tenant and enforce as necessary.

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 29, 2012.

Residential Tenancy Branch