



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, OPR, OPB, MNR, MNSD, FF

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is a request for an Order of Possession, a request for a monetary order for \$3596.32, and a request for recovery of the \$50.00 filing fee.

Background and Evidence

The applicant testified that:

- The tenant signed a fixed term tenancy agreement with an end of tenancy date of April 30, 2013, and rent of \$1650.00 per month.
- The tenant gave notice on June 3, 2012 that she would be vacating on June 30, 2012, which not only breached the tenancy agreement, it was not even the proper amount of notice required under the Residential Tenancy Act.
- The tenant also failed to pay the full rent for the month of June 2012 and there is still \$250.00 outstanding.
- The tenant also failed to pay her water utility bill in the amount of \$46.32.
- The tenant vacated the rental unit on June 27, 2012 and therefore he no longer requires an Order of Possession.
- He attempted to re-rent the unit and was able to find a tenant for July 4, 2012 and therefore he is no longer requesting the full rent for the month of July 2012,

and August 2012, however he lost three days worth of rent for the month of July 2012.

The applicant is therefore requesting an order as follows:

Rent outstanding for June 2012	\$250.00
Utilities outstanding	\$46.32
Lost rental revenue for July 2012	\$159.67
Filing fee	\$50.00
Total	\$505.99

Is also wants to keep the full security deposit due to the tenant breaching the tenancy agreement.

The respondent testified that:

- She does owe \$250.00 rent for the month of June 2012.
- She does owe utilities in the amount of \$46.32 however she does not believe she should have to pay the full amount because there was a leak at the property that the landlord did not repair.
- She also does not believe she should have to pay any rent for the month of July 2012, because she gave the landlord notice that she would be vacating at the end of June 2012.
- She also believes that she was in a 1 month lease only, because the landlord changed the end of tenancy date from April 2012 to April 2013.

In response to the tenant's testimony the landlord testified that:

- The date was changed from April 2012 to April 2013 at the time of signing, as it was mistakenly filled in as 2012 even though it was supposed to be a one year lease.

Analysis

The tenant is not disputing the claim for rent for the month of June 2012, and therefore I allow the landlords claim for that \$250.00.

I also allow the claim for outstanding utilities. The tenant states that she does not want to pay the full amount due to a leak at the property, however the tenant has provided no evidence to show that a significant amount of water was lost due to the leak.

I also allow the claim for lost rental revenue for three days in July of 2012. First of all, the tenant did not give the required one clear month Notice to End Tenancy, and secondly it is my finding that the tenant was in a lease that ran until April 30, 2013.

I do not accept the tenants claim that it was a one month lease, as there would be no reason to enter into a lease for one month when a month-to-month tenancy would have the same affect.

I also allow the landlords request for recovery of the \$50.00 filing fee.

I will not allow the landlord to keep the tenants full security deposit simply because the tenancy agreement was breached. A tenant does not automatically forfeit their security deposit when they breach a tenancy agreement, however the security deposit can be claimed towards any loss that results from the breach.

Therefore the total amount of the landlord's claim that I have allowed is as follows:

Rent outstanding for June 2012	\$250.00
Utilities outstanding	\$46.32
Lost rental revenue for July 2012	\$159.67
Filing fee	\$50.00
Total	\$505.99

Conclusion

I have allowed \$505.99 of the landlords claim and I therefore order that the landlord may retain \$505.99 of the tenant's security deposit and have issued an order for the landlord to return the balance of \$319.01.

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: July 17, 2012.

Residential Tenancy Branch