



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 was scheduled in response to the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / retention of the security deposit / and recovery of the filing fee. The landlord's agent participated in the hearing and gave affirmed testimony.

The landlord's agent testified that her understanding was that the landlord's son had undertaken to personally serve the tenant with the application for dispute resolution and notice of hearing (the "hearing package"). Despite this, the tenant did not appear. Further, the landlord's agent testified that the tenant vacated the unit on August 15, 2012 without providing a forwarding address. As the tenant has now vacated the unit, the application for an order of possession was withdrawn.

Issue(s) to be Decided

Whether the landlord is entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

There is no written tenancy agreement in evidence for this month-to-month tenancy which began approximately 4 years ago. Monthly rent of \$800.00 is due and payable in advance on the first day of each month, and a security deposit of \$400.00 was collected.

Arising from rent which remained overdue on June 1, 2012 in the total amount of \$3,000.00, the landlord issued a 10 day notice to end tenancy for unpaid rent dated June 4, 2012. The notice was served by way of posting on the tenant's door on that same date. A copy of the notice was submitted in evidence. Subsequently, the tenant made partial payments toward rent as follows:

JUNE 1:

total owed = \$3,000.00

JUNE 11:

payment = \$400.00

balance owed = \$2,600.00 (\$3,000.00 - \$400.00)

JULY 1:

amount owed = \$800.00 (July's rent) + \$2,600.00 (previous balance owed) = \$3,400.00 (total owed).

JULY 8:

payment = \$250.00

balance owed = \$3,150.00 (\$3,400.00 - \$250.00)

JULY 18:

payment = \$200.00

balance owed = \$2,950.00 (\$3,150.00 - \$200.00)

AUGUST 1:

amount owed = \$800.00 (August's rent) + \$2,950.00 (previous balance owed) = \$3,750.00 (total owed).

Analysis

As to service of the hearing package, based on the documentary evidence and the affirmed / undisputed testimony of the landlord's agent, I find on a balance of probabilities that the tenant was served in accordance with the Act.

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord's agent, I also find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated June 4, 2012. The tenant did not pay the full amount of rent outstanding within 5 days of receiving the notice, and he did not apply to dispute the notice. After making certain installment payments toward rent, as set out above, the tenant vacated the unit on August 15, 2012 without providing a forwarding address.

As for the monetary order, I find that the landlord has established a claim of \$3,800.00, which is comprised of \$3,750.00 in unpaid rent as detailed above, in addition to the \$50.00 filing fee. I order that the landlord retain the security deposit of \$400.00, plus interest of \$2.15 which is calculated on the basis of having been collected 4 years ago

from today's date (total: \$402.15), and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$3,397.85 (\$3,800.00 - \$402.15).

Conclusion

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of \$3,397.85. This order may be served on the tenant, filed in the Small Claims Court and 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: August 23, 2012.

Residential Tenancy Branch