



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 1:42 p.m. in order to enable her to connect with this teleconference hearing scheduled for 1:30 p.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord testified that she posted a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenant's door on July 3, 2012. She testified that she sent the tenant a copy of the landlord's dispute resolution hearing package by registered mail on July 13, 2012. She provided a copy of the Canada Post Tracking Number and On-Line Tracking Information to confirm this mailing. She noted that the tenant had refused to accept the landlord's registered mail containing the hearing package. I am satisfied that the landlord served the above documents to the tenant in accordance with the *Act*.

At the commencement of the hearing, the landlord testified that the tenant had abandoned the rental unit by July 16, 2012 and that the landlord had possession of the rental unit. I agreed to the landlord's request to withdraw the application for an Order of Possession.

Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent and losses arising out of this tenancy? Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

This tenancy commenced as a seven-month fixed term tenancy on August 1, 2010 for a monthly rent of \$825.00. At the expiration of the original term, the tenancy continued as a periodic tenancy. The current monthly rent when the tenant vacated the rental unit on July 16, 2012 was set at \$835.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$412.50 security deposit paid on July 15, 2010.

The landlord's application for a monetary award of \$1,695.00 included the following:

Item	Amount
Unpaid July 2012 Rent	\$835.00
July 2012 Late Fee	25.00
Loss of Rent August 2012	835.00
Total Monetary Award Requested	\$1,695.00

The landlord testified that the tenant did not make any further payments after the landlord issued the 10 Day Notice. She said that the premises were in poor condition when the tenant vacated the rental unit, requiring extensive cleaning and repair. She said that she commenced listing the rental unit on various rental websites and on a sign at the premises shortly after the tenant vacated the rental unit. Although she has had some showings, no one has rented the premises as yet.

Analysis

Based on the landlord's undisputed evidence, I allow the landlord's application for unpaid rent of \$835.00 and the late fee of \$25.00 for July 2012. I accept that the landlord has complied with the provisions of section 7(2) of the *Act* by taking adequate measures to mitigate the tenant's responsibility for the landlord's rental loss for August 2012. The premises are available for rent and may attract a tenant willing to occupy the rental unit by mid-August 2012. For this reason, I limit the landlord's entitlement to a monetary award of \$417.50 representing one-half of the monthly rent for August 2012.

I allow the landlord to retain the tenant's security deposit plus applicable interest in partial satisfaction of the monetary award issued in this decision. No interest is payable over this period. I allow the landlord to recover the \$50.00 filing fee for this application.

Conclusion

The landlord's application for an Order of Possession is withdrawn.

I issue a monetary Order in the landlord's favour under the following terms which allows the landlord to recover unpaid rent, loss of rent and the filing fee for this application and to retain the tenant's security deposit:

Item	Amount
Unpaid July 2012 Rent	\$835.00
July 2012 Late Fee	25.00
Loss of Rent for ½ of August 2012 (\$835.00 x 50% = \$417.50)	417.50
Less Security Deposit	-412.50
Filing Fee	50.00
Total Monetary Order	\$915.00

The landlord is provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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 01, 2012

Residential Tenancy Branch