



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, 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 pursuant to section 67; and
- authorization to recover her filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 11:13 a.m. in order to enable him to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord entered into written evidence a sworn affidavit of service from a process server who swore before a notary public on August 21, 2012 that he handed the landlord's dispute resolution hearing package, including a copy of the Notice of a Dispute Resolution Hearing, to the tenant on August 10, 2012 at 6:50 p.m. I am satisfied that the landlord served this package to the tenant in accordance with the *Act*.

The landlord testified that the tenant vacated the rental unit on approximately January 29, 2012. As such, there was no need to consider the landlord's application for an Order of Possession for unpaid rent. The landlord's application for an Order of Possession is withdrawn.

Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

This periodic tenancy commenced on May 2, 2007. By the end of this tenancy, monthly rent was set at \$500.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$250.00 security deposit paid on May 1, 2007.

The landlord's application for a monetary award of \$4,925.00 included requests for the recovery of the following items:

Item	Amount
Unpaid Portion of April 2011 Rent (\$325.00)	\$325.00
Unpaid Rent May 2011 - January 2012- (9 months @ \$500.00 = \$4,500.00)	4,500.00
Expenses Incurred to Locate Tenant (i.e., Process Server's Fees)	250.00
Recovery of Filing Fee for this application	50.00
Total of Above Items	\$5,125.00

Analysis

Based on the undisputed evidence presented by the landlord, I am satisfied that the landlord is entitled to a monetary award for unpaid rent of \$325.00 for April 2011 and \$4,500.00 for the nine months covering the period from May 2011 until and including January 2012.

The landlord did not provide any receipts or documentation to confirm that she incurred any additional unpaid rent, the sole item she had identified in her requested monetary award for unpaid rent. For this reason and because the landlord's application was for a monetary award of \$4,925.00, I have not considered the landlord's request for reimbursement of the expenses she incurred in locating the tenant as part of this application.

Although the landlord's application does not seek to retain the tenant's security deposit, using the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the security deposit plus applicable interest in partial satisfaction of the monetary award issued in this decision. As the landlord was successful in this application, I find that the landlord is entitled to recover the \$50.00 filing fee paid for her application.

Conclusion

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

Item	Amount
Unpaid Portion of April 2011 Rent (\$325.00)	\$325.00
Unpaid Rent May 2011 - January 2012- (9 months @ \$500.00 = \$4,500.00)	4,500.00
Less Security Deposit Plus Interest (\$250.00 + \$6.31 = \$256.31)	-256.31
Recovery of Filing Fee for this application	50.00
Total of Monetary Order	\$4,618.69

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: September 10, 2012

Residential Tenancy Branch