



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 was convened in response to an application by the landlord pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows:

1. An Order of Possession - Section 55; (*withdrawn*)
2. A Monetary Order for unpaid rent - Section 67;
3. An Order to retain the security deposit - Section 38
4. An Order to recover the filing fee for this application - Section 72.

I accept the landlord's evidence that despite the tenant having been served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Residential Tenancy Act (the Act) the tenant did not participate in the conference call hearing. The landlord provided proof of registered mail service dated August 23, 2012. The landlord advised that the tenant has since vacated the rental unit – therefore an Order of Possession is not necessary.

The landlord's amendment request is not allowed as they landlord has not served their amendment to the tenant. Any claim related to the amendment request **is dismissed** with leave to reapply.

The landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on September 01, 2010. The rental is a 2 bedroom unit. Rent in the amount of \$1000 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$490.00. The tenant failed to pay rent in the month of July 2012 and on July 02, 2012 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The tenant further failed to pay rent in the month of August 2012. The landlord does not know with certainty when they vacated the rental unit, and testified that they met the tenant on the residential property (parking area) on September 04, 2012, at which time the landlord claims the tenant advised them that they were almost fully vacated from the unit. The landlord testified that as a result the tenant was still on the residential property into September 2012, they seek loss of revenue for September 2012, as well. The landlord testified that subsequent to September 04, 2012 they attempted to re-rent the unit as soon as possible, but that there was no interest in the 2 bedroom unit for September 15, 2012. As of this hearing's date, the landlord confirms there has not been interest in the 2 bedroom unit.

Analysis

Based on the landlord's testimony I find that the tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The tenant has not paid the outstanding rent and has not applied for Dispute Resolution to dispute the notice.

I find that the landlord has established a monetary claim for **\$2000.00** in unpaid rent for July and August 2012.

I accept the landlord's undisputed evidence that the tenant did not vacate the rental unit at the end of August 2012. I find the landlord's claim for loss of revenue for September has partial merit, given that the tenant did not allow occupancy of the rental unit for September 01, 2012. Therefore, I grant the landlord one half month's rent for September in the amount of **\$500.00**, without leave to reapply. I find the landlord has not provided evidence of their efforts to mitigate any rental losses beyond September 15, 2012 – other than stating there is a lack of interest in the 2 bedroom rental unit – for which aspect the tenant is not responsible.

As a result of all the above, the landlord is also entitled to recovery of the **\$50** filing fee, for a total entitlement of **\$2550.00**.

The security deposit will be off-set from the award made herein.

Calculation for Monetary Order

Rental Arrears	\$2000.00
Filing Fees for the cost of this application	50.00
Less Security Deposit and applicable interest <i>to date</i>	-490.00
Total Monetary Award	\$2060.00

Conclusion

I Order that the landlord retain the deposit of \$490.00 in partial satisfaction of the claim and I grant the landlord an Order under Section 67 of the Act for the balance due of **\$2060.00**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

This Decision is final and binding on the parties.

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 24, 2012

Residential Tenancy Branch