



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 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;
- 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 9:48 a.m. in order to enable him to connect with this teleconference hearing scheduled for 9:30 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 oral and witnessed written evidence that a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) was posted on the tenant's door at 12:00 p.m. on October 3, 2012. The landlord testified that she sent a copy of the landlord's dispute resolution hearing package to the tenant by registered mail on October 12, 2012. She provided the Canada Post Tracking Number to confirm this mailing, which she maintained was received by the tenant on October 23, 2012. I am satisfied that the landlord served the above documents to the tenant in accordance with the *Act*.

The landlord testified that the tenant vacated the rental unit by October 31, 2012. She said that the tenant paid \$475.00 of the amount owing for October 2012 on October 23, 2012. As the landlord received vacant possession of the rental unit from the tenant and has re-rented the premises to another tenant, the landlord withdrew the application to end this tenancy and obtain an Order of Possession. She also amended the amount of the requested monetary award from \$2,500.00 to \$825.00, an amount which includes recovery of the landlord's filing fee for this application. The landlord's application for an Order of Possession is withdrawn and the requested amount of the monetary award is lowered to \$825.00.

Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent? 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 one-year fixed term tenancy commencing on November 1, 2011 was scheduled to end on October 31, 2012, according to the terms of the written Residential Tenancy Agreement entered into written evidence by the landlord. Monthly rent was set at \$1,250.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$625.00 security deposit paid on October 31, 2011.

Analysis

Based on the undisputed evidence before me, I find that the landlord is entitled to a monetary award of \$825.00 for unpaid rent and the recovery of the landlord's filing fee. To implement this monetary award, I order the landlord to retain the tenant's security deposit plus applicable interest. No interest is payable over this period.

Conclusion

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

Item	Amount
Unpaid October 2012 Rent	\$775.00
Less Security Deposit	-625.00
Recovery of Filing Fee for this Application	50.00
Total Monetary Order	\$200.00

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: November 19, 2012

Residential Tenancy Branch

