



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 the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 3:12 p.m. in order to enable her to connect with this teleconference hearing scheduled for 3:00 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 the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenant's door on October 2, 2012. She entered into written evidence a copy of a statement to this effect, also signed by her daughter who witnessed her post this 10 Day Notice at 9:30 a.m. on October 2, 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 13, 2012. She provided the Canada Post Tracking Number to confirm this registered mailing. She said that she was certain that the tenant had received this package. I am satisfied that the landlord served the above documents and her evidence package to the tenant in accordance with the *Act*.

At the hearing, the landlord testified that the tenant paid all of the \$991.00 identified as owing in the 10 Day Notice on October 26, 2012. The landlord also testified that the tenant paid \$901.00 of the \$991.00 in November 2012 rent requested in the landlord's application for dispute resolution on November 12, 2012. The landlord requested an amendment to the amount claimed in the application for dispute resolution from \$1,982.00 to \$90.00, the amount still owing for November 2012, plus the recovery of the landlord's \$50.00 filing fee for this application. As the tenant has given her notice that she intends to vacate the rental unit by November 30, 2012, the landlord withdrew the application for an Order of Possession. As requested, the landlord's application for an Order of Possession is withdrawn and the amount of the landlord's requested monetary award is reduced to \$140.00.

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 one-year fixed term tenancy commenced on May 1, 2010. At the end of the initial fixed term, the tenancy converted to a periodic tenancy. Monthly rent as of May 1, 2012 was set at \$991.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$465.00 security deposit paid on April 5, 2010.

Analysis

Based on the undisputed evidence before me, I find that the landlord is entitled to a monetary award of \$90.00 for unpaid rent owing for November 2012. As the landlord has been successful in this application, I also allow the landlord to recover the \$50.00 filing fee from the tenant.

Although the landlord's application does not seek to retain a portion of the tenant's security deposit, using the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain \$140.00 from the tenant's security deposit in satisfaction of the monetary award issued in this decision. I order that the revised value of the tenant's security deposit retained by the landlord is now set at \$325.00 (i.e., \$465.00 - \$140.00 = \$325.00).

Conclusion

I order the landlord to retain \$140.00 from the tenant's security deposit in order to allow the landlord to recover \$90.00 in unpaid rent owing from this tenancy and the landlord's recovery of the \$50.00 filing fee for this application. I order that the current value of the retained portion of the tenant's security deposit is now set at \$325.00.

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

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 20, 2012

Residential Tenancy Branch

