



Dispute Resolution Services

Page: 1

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 for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent, loss of rent, hydro and satellite TV charges. In addition, the landlord was seeking authorization to retain the security deposit in partial satisfaction of the amounts owed to the landlord.

Procedural and Preliminary Issues

At the commencement of the hearing the landlord confirmed that the tenant has since vacated and an Order of Possession is no longer required.

The landlord submitted very late evidence pertaining to damage to the rental unit. Given the evidence was submitted only a couple of days prior to the scheduled hearing date I found it would be prejudicial to the tenant to amend the application to deal with a damage claim. Therefore, I did not amend the application and I informed the landlord of its right to file another Application for Dispute Resolution seeking compensation for damage.

The tenant appeared at the hearing only briefly, approximately 18 minutes after the hearing commenced, and used profanity before hanging up.

Issue(s) to be Decided

1. Has the landlord established an entitlement to compensation for unpaid rent, loss of rent, hydro and satellite TV charges?
2. Is the landlord authorized to retain the security deposit?

Background and Evidence

The tenancy commenced September 2012 and the tenant paid a security deposit of \$450.00. The tenant was required to pay monthly rent of \$900.00 in two instalments of

\$450.00 each, on the 5th and 20th of every month. The tenant was also required to compensate the landlord for hydro charges that exceed \$30.00 per month.

On November 22, 2012 the landlord requested payment of \$25.67 for the hydro in excess of \$60.00 for two months.

The tenant failed to pay the rent owed December 20, 2012. The landlord posted a 10 Day Notice to End Tenancy for Unpaid Rent (the Notice) on the tenant's door on December 21, 2012. The Notice indicates the tenant failed to pay rent of \$450.00 and utilities of \$25.67. The tenant did not pay the outstanding rent or utilities and did not file to dispute the Notice.

The landlord's witness observed the tenant moving out at approximately midnight on January 15, 2013. The landlord's agent confirmed with the tenant on January 24, 2013 that she had moved out. During the tenant's brief appearance at the hearing she stated she moved out January 8, 2013.

The landlord has not yet been able to re-rent the unit and is seeking to recover unpaid rent of \$450.00 for December 2012 and \$900.00 in loss of revenue for January 2013. The request for loss of rent for February 2013 and March 2013 were dismissed with leave to reapply as losses for those months have not yet been incurred.

In addition, the landlord is seeking to recover unpaid hydro of \$25.67 and satellite TV charges for the months of September through December 2012 at \$35.00 per month and a \$50.00 deposit on the satellite receiver. The landlord explained that every unit in the building is equipped with a satellite TV receiver. If tenants subscribe to the service it costs \$35.00 per month. I heard that the tenant verbally indicated she wanted satellite TV at the beginning of the tenancy and then after approximately one month she informed the landlord she did not want the service any more. The parties did not sign a satellite TV agreement although it would appear such agreements exist based upon a notation on the ledger provided as evidence. Nor was I presented evidence that the landlord gave the tenant written notification or demand for satellite TV service. The landlord had received \$50.00 from the tenant's live-in boyfriend for satellite TV and he indicated that he wanted the service to continue. The satellite TV service remained in place.

Analysis

The Act requires a tenant to pay rent in accordance with the terms of their tenancy agreement. Based upon the evidence presented to me, I am satisfied the tenant did not

pay the rent that was due on December 20, 2012 and I award the landlord \$450.00 for unpaid rent.

In order for a tenant to end a month to month tenancy, and end their obligation to pay rent, the tenant is required to give the landlord at least one full month of written notice. In the absence of such notice and considering the tenant continued to occupy the rental unit in January 2013 I find the landlord entitled to unpaid rent for the month of January 2013 in the amount of \$900.00.

The landlord has substantiated that the landlord received a hydro bill of \$85.27 for the period of September 5 – November 2, 2012 with respect to the rental unit and presented the tenant with a demand for payment of \$25.67 on November 22, 2012. As the tenancy agreement indicates the tenant is responsible for electricity I find the landlord is entitled recover hydro charges from the tenant. Therefore, I award the landlord \$25.67 as claimed.

As the satellite TV was provided to the tenant under a verbal request by the tenant and not by way of a written agreement, I accept that the service could be terminated verbally by the tenant. Based upon the landlord's own testimony I find the tenant notified the landlord that she no longer wanted the satellite TV service after approximately one month; thereby, ending the service to be provided to the tenant. Although the tenant's boyfriend may have indicated to the landlord that he would pay for satellite TV, the landlord cannot pursue the tenant for something requested by a person that was not a tenant of the unit. Since the landlord has been compensated \$50.00 for satellite TV for approximately one month of agreed upon service, I find this to be sufficient compensation and I deny the landlord's claims against the tenant for any subsequent satellite TV service.

I authorize the landlord to retain the tenant's security deposit in partial satisfaction of the rent owed the landlord. I also award the landlord the filing fee paid for this application.

In light of the above, the landlord is provided a Monetary Order calculated as follows:

December 2012 unpaid rent	\$ 450.00
January 2013 unpaid and loss of rent	900.00
Hydro	25.67
Filing fee	50.00
Less: security deposit	<u>(450.00)</u>
Monetary Order	\$ 975.67

To enforce the Monetary Order it must be served upon the tenant and may be filed in Provincial Court (Small Claims) as necessary.

Conclusion

The landlord has been authorized to retain the security deposit and has been provided a Monetary Order for the balance of \$975.67 to serve and enforce as necessary.

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: January 31, 2013

Residential Tenancy Branch

