



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes: OPR, OPB, MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for rental arrears and utility costs left by the tenant at the end of the tenancy. The landlord was also claiming the cost of garbage removal. The landlord was seeking to keep the security deposit in partial satisfaction of the claim.

Despite being served by registered mail sent on December 11, 2012, as verified by the Canada Post tracking number, the respondent did not appear.

At the outset of the hearing, the landlord advised that the tenant has vacated the property and there is no need for the Order of Possession requested in the application.

Remaining Issue(s) to be Decided

Is the landlord entitled to compensation for rental arrears owed, utilities and garbage removal?

Background and Evidence

The tenancy began in February 2012 with rent of \$2,750.00 and a security deposit of \$1,375.00. A copy of the tenancy agreement, a copy of the Ten Day Notice to End Tenancy for Unpaid Rent, copies of a returned cheque, copies of invoices, copies of communications and proof of service were submitted into evidence.

The landlord testified that, when the tenant fell into arrears for \$2,750.00, a Ten Day Notice to End Tenancy for Unpaid Rent was issued and served in person on December 4, 2012. The landlord testified that the tenant vacated on December 14, 2012 without paying and also left a utility bill in the landlord's name in the amount of \$136.89. The landlord testified that the tenant left some unpaid disposal costs for the garbage removal in the amount of \$150.00. The landlord is claiming \$3,036.89 plus the cost of filing the application.

Analysis

With respect to the rent, I find that section 26 of the Act states that rent must be paid when it is due. I find that the tenant did not pay in accordance with the Act and must now compensate the landlord for rental arrears in the amount of \$2,750.00.

In regard to the claim for the costs of garbage removal, in a claim for damage or loss under the Act, the party making the claim bears the burden of proof and the evidence furnished by the applicant must satisfy each component of the test below:

Test For Damage and Loss Claims

1. Proof that the damage or loss exists,
2. Proof that this damage or loss happened solely because of the actions or neglect of the Respondent in violation of the Act or agreement
3. Verification of the actual amount required to compensate..
4. Proof that the claimant followed section 7(2) of the Act by taking reasonable steps to mitigate or minimize the loss or damage

In this instance, the burden of proof is on the landlord to prove the damage/loss stemmed directly from a violation of the agreement or the Act by the respondent and to verify that a reasonable attempt was made to mitigate the damage or losses incurred.

I accept the landlord's testimony that the tenant left garbage removal costs to be paid and I find that this violated both the tenancy agreement and the Act. I find that the claim has met all elements of the test for damages and the landlord is entitled to \$150.00.

With respect to the cost of utilities, I accept the landlord's testimony that the tenant was supposed to pay the utilities, but left an outstanding bill for \$136.89 in the landlord's name and I find that the landlord is entitled to be compensated for that amount.

Given the above, I find that the landlord has established a total monetary claim of \$3,086.89, comprised of \$2,750.00 rental arrears, \$150.00 for cleaning, \$136.89 for garbage disposal and the \$50.00 cost of this application. I order that the landlord retain the security deposit of \$1,375.00 in partial satisfaction of the claim leaving a balance due of \$1,711.89.

I hereby grant the Landlord an order under section 67 for \$1,711.89. This order must be served on the Respondent and may be filed in the Provincial Court (Small Claims) a

Conclusion

The landlord is successful in the application and is granted a monetary order.

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 14, 2013

Residential Tenancy Branch

