



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 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;
2. A Monetary Order for unpaid rent - Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Preliminary Matters

At the onset of the Hearing the Landlord stated that the Tenants have moved out of the unit and that as the Landlord has possession of the unit, an order of possession is no longer required.

Noting that the tenancy agreement only includes the first person named as Tenant in the application, I find that the second named Tenant in the application is not a tenant that the Landlord may make a monetary claim against. I therefore dismiss the claims against the second named Tenant in the application.

The Landlord states that an amendment to the application was served on the Tenant on March 2, 2013 by putting the amendment in the mail box. The amendment seeks a larger monetary amount than the original application for unpaid March 2013 rent. Section 89 of the Act provides options for service of an application seeking a monetary order that do not include service to the mailbox. As the Act does not allow the service of the amended application to the mailbox, I find that service of this document has not met the requirements of the Act and must therefore be dismissed with leave to reapply.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy began on September 1, 2012. Rent in the amount of \$1,450.00 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 \$725.00. The tenancy agreement provides that the Tenant is responsible for the payment of heat and electrical utilities. Between November 2012 and February 2013 inclusive, the Tenant failed to pay \$2,805.00 in rent and failed to pay \$854.83 in utilities. The Landlord provided copies of the utility bills to the Tenant.

Analysis

Given the terms of the tenancy agreement in relation to the payment of rent and utilities and based on the undisputed evidence of the Landlord that rents and utilities are unpaid, I find that the Landlord has established a monetary claim for **\$3,659.83**. As the Landlord has been successful with its monetary claim, I also find that the Landlord is entitled to recovery of the **\$50.00** filing fee for a total monetary entitlement of **\$3,709.83**. Setting the security deposit of **\$725.00** plus zero interest off this entitlement leaves **\$2,984.83** owed by the Tenant to the Landlord.

Conclusion

I **order** that the Landlord retain the **deposit** and interest of \$725.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$2,984.83**. If necessary, this order may be filed in the Small Claims Court and enforced as an order 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: March 12, 2013

Residential Tenancy Branch

