



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding REMAX CHECK REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed on December 13, 2012, by the Landlord, to obtain a Monetary Order for unpaid rent and to recover the cost of the filing fee from the Tenant for this application.

The Landlord affirmed that the Tenant was served copies of the application for dispute resolution and notice of hearing documents by registered mail on December 17, 2012. Canada Post tracking receipts were provided in the Landlord's testimony. Based on the submissions of Landlord I find that the Tenant was sufficiently served notice of this proceeding and I continued in the Tenant's absence.

Issue(s) to be Decided

Should the Landlord be issued a Monetary Order?

Background and Evidence

The Landlord submitted documentary evidence which included, among other things, copies of: the tenancy agreement; a letter issued to the Tenant on May 2, 2012; the notice of final opportunity for inspection; and a tenant payment ledger.

The Landlord confirmed the month to month tenancy began on January 13, 2009 and ended September 30, 2012 after the Tenant provided proper notice to end the tenancy. Rent was payable on the first of each month in the amount of \$950.00 and on January 13, 2009 the Tenant paid \$475.00 as the security deposit. The move in condition inspection report was completed on January 14, 2009. The Tenant failed to attend the first two scheduled move out inspections and after final notice to attend was served the inspection was completed on October 4, 2012 in the absence of the tenant.

The Landlord stated that during 2012 the Tenant's rent totaled \$8,550.00 (9 months x \$950.00) however the Tenant only paid a total of \$7,350.00. They are seeking a monetary order for the accumulated unpaid balance owing of \$1,200.00.

In closing, the Landlord advised that even though the Tenant extinguished his right to the return of his security deposit the owner has requested that the monetary claim be offset against the deposit.

Analysis

A party who makes an application for monetary compensation against another party has the burden to prove their claim. Awards for compensation are provided for in sections 7 and 67 of the *Residential Tenancy Act*.

Section 26 of the Act stipulates that a tenant must pay rent when it is due in accordance with the tenancy agreement. In this case the Tenant failed to pay his full rent leaving an accumulated unpaid balance of \$1,200.00, as of September 30, 2012.

Based upon the undisputed evidence before me, I find the Landlord is entitled to recover unpaid rent up to the end of September 2012 in the amount of **\$1,200.00**.

The Landlord has succeeded with their application; therefore I award recovery of the **\$50.00** filing fee.

Monetary Order – I find that the Landlord is entitled to a monetary claim and that this claim meets the criteria under section 72(2)(b) of the *Act* to be offset against the Tenant's security deposit plus interest as follows:

| | |
|--|-------------------------|
| Accumulated unpaid rent | \$1,200.00 |
| Filing Fee | <u>50.00</u> |
| SUBTOTAL | \$1,250.00 |
| LESS: Security Deposit \$475.00 + Interest \$0.00 | <u>-475.00</u> |
| Offset amount due to the Landlord | <u>\$ 775.00</u> |

Conclusion

The Landlord has been awarded a Monetary Order in the amount of **\$775.00**. This Order is legally binding and must be served upon the Tenant.

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 13, 2013

Residential Tenancy Branch

