



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MacDonald Commercial R.E.S. Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, 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 and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38; 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 9:40 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord's female representative (the landlord) testified that a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) was placed in the tenant's mailbox on February 27, 2013. The landlord testified that she sent a copy of the landlord's dispute resolution hearing package to the tenant by registered mail on March 13, 2013. She entered into written evidence a copy of the Canada Post Tracking Number, Customer Receipt and On-Line Tracking System proof of receipt document, noting that the package was received on March 14, 2013. I am satisfied that the landlord served the above documents in accordance with the *Act*.

At the commencement of the hearing, the landlord testified that the tenant abandoned the rental unit by April 1, 2013, by which time the tenant had returned the keys to the rental unit. She said that she is no longer seeking an Order of Possession. The landlord's application for an Order of Possession is withdrawn.

The landlord also testified that since the landlord applied for dispute resolution, the landlord received a \$975.00 payment from the tenant on March 12, 2013, accepted by the landlord for use and occupancy only. The landlord's requested monetary award of \$3,412.50 for unpaid rent was reduced to a request for \$2,437.50, plus recovery of the \$50.00 filing fee for this application.

Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent and losses arising out of this tenancy? Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested? 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 June 1, 2012. Monthly rent was set at \$975.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$487.50 security deposit, paid on May 25, 2012.

The landlord's original application for a monetary award of \$3,412.50 included unpaid rent owing from February and March 2013, plus anticipated loss of rent for April 2013, retention of the tenant's security deposit and recovery of the filing fee for this application.

Analysis

Based on the undisputed evidence before me, I find that the landlord is entitled to recover unpaid rent of \$975.00 for February and March 2013, less the \$975.00 payment received for use and occupancy only on March 12, 2013. I also accept that the tenant's failure to comply with the terms of his fixed term tenancy agreement has led to the landlord's rental loss of \$975.00 for April 2013.

As the landlord has been successful in this application, I allow the landlord to recover the \$50.00 filing fee from the tenant.

I allow the landlord to retain the tenant's security deposit plus applicable interest in partial satisfaction of this monetary award. No interest is payable over this period.

Conclusion

I issue a monetary Order in the landlord's favour under the following terms, which allows the landlord to recover unpaid rent, loss of rent and the landlord's filing fee, and to retain the tenant's security deposit:

Item	Amount
Unpaid February 2013 Rent	\$975.00
Unpaid March 2013 Rent	975.00
Loss of Rent for April 2013	975.00
Less March 12, 2013 Payment from Tenant	-975.00
Less Security Deposit	-487.50
Recovery of Filing Fee for this Application	50.00
Total Monetary Order	\$1,512.50

The landlord is provided with these Orders in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court.

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: April 08, 2013

Residential Tenancy Branch