



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, OBB, MNR, MNSD, MNDC, FF

Introduction

This hearing was convened by way of conference call in response to the landlord's application for an Order of Possession for unpaid rent and utilities and because the tenant has breached an agreement with the landlord; for a Monetary Order for unpaid rent or utilities; for an Order permitting the landlord to keep all or part of the tenants security deposit; for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; and to recover the filing fee from the tenant for the cost of this application.

At the outset of the hearing the landlord advised that the tenant is no longer residing in the rental unit, and therefore, the landlord withdraws the application for an Order of Possession and for a Monetary Order for money owed or compensation for damage or loss.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*, and the landlord declares that the landlord served the tenant in person, with a witness, on May 03, 2013.

The landlord appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Is the landlord entitled to a Monetary Order for unpaid rent?
- Is the landlord entitled to keep the security deposit?

Background and Evidence

The landlord testifies that this month to month tenancy started on November 15, 2012. Rent for this unit was \$1,165.00 per month and was due on the first day of each month. The tenant paid a security deposit of \$585 on November 16, 2012.

The landlord testifies that the tenant failed to pay all the rent for March, 2013 leaving an unpaid balance of \$351.00. The tenant failed to pay any rent for April or May, 2013 and moved from the rental unit on or about May 27, 2013. A 10 Day Notice to End Tenancy was served upon the tenant on April 26, 2013 and was served in person to the tenant's wife residing in the rental unit. This Notice informed the tenant that rent is owed of \$1,516.00 and the tenant has five days to either pay the rent or dispute the Notice or the tenancy will end on May 06, 2013. The landlord testifies that the tenant did not pay the rent or dispute the Notice. The landlord testifies that the total amount of outstanding rent is now \$2,681.00.

The landlord seeks an Order to keep the security deposit of \$585.00 to offset against the rent arrears. The landlord seeks a Monetary Order for the balance of rent due and seeks to recover the \$50.00 filing fee.

Analysis

The tenant did not appear at the hearing to dispute the landlord's claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the

tenant, I have considered the landlord's documentary evidence and affirmed testimony before me. Section 26 of the *Act* states:

A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement , unless the tenant has a right under this Act to deduct all or a portion of the rent.

The landlord has testified that rent is due on the 1st day of each month and the tenant failed to pay rent for March, April and May, 2013. Therefore I am satisfied that the landlord is entitled to a Monetary Order to recover the rent arrears to an amount of \$2,681.00 pursuant to s. 67 of the *Act*.

The landlord is therefore entitled to keep the tenants security deposit of **\$585.00** pursuant to s. 38(4)(b) of the *Act* and this sum will be offset against the unpaid rent.

As the landlord has been successful with their claim I find the landlord is entitled to recover the **\$50.00** filing fee from the tenant pursuant to section 72(1) of the *Act*. The landlord will receive a Monetary Order for the following amount:

Unpaid rent	\$2,681.00
Less security deposit	(-\$585.00)
Filing fee	\$50.00
Total amount due to the landlord	\$2,146.00

Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$2,146.00**. The order must be served on the tenant and is enforceable through the Provincial Court 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: May 30, 2013

Residential Tenancy Branch