



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNR, OPR, MNR, MNSD, FF

Introduction

This hearing was convened in response to an application by the tenant **and** an application by the landlord.

The tenant sought to cancel a 10 Day Notice for Unpaid Rent (Notice to End). The landlord sought an Order of Possession due to unpaid rent, a Monetary Order to recover rental arrears and inclusive of recovery of the filing fee associated with this application, and an order to retain the security deposit in partial satisfaction of the monetary claim.

Despite the tenant having applied for dispute resolution and given a notice of hearing to attend this matter, the tenant did not attend the conference call hearing to advance their application. As a result, the tenant's application is preliminarily **dismissed**, without leave to reapply. The landlord advised the tenant has vacated the rental unit.

The landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

I do not have benefit of the written tenancy agreement the landlord claims guides this tenancy. None the less, the landlord's testimony is that the tenancy began on April 01, 2011. Rent in the amount of \$2695.00 was 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 \$1347.50, which the landlord retains in trust and the tenant purportedly assigned to the landlord. The tenant failed to pay rent in the month of May 2013 and on May 08, 2013 the landlord served the tenant with a notice to end tenancy

for non-payment of rent. The tenant did not satisfy the rent and subsequently vacated the unit. The quantum of the landlord's monetary claim is for the unpaid rent and a late fee of \$25.00.

Analysis

Based on the landlord's testimony I find that the tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid. The tenant has not paid the outstanding rent and despite applying for Dispute Resolution to dispute the notice they have not provided any evidence to support their application and did not attend the hearing, and vacated. An Order of Possession is not required.

I find that the landlord has established a monetary claim for **\$2695.00** in unpaid rent. The landlord has not provided document evidence to support the tenancy agreement contains a term that the parties agreed the tenant will pay a fee for late payment of rent. As a result, the landlord's request for the late fee is **dismissed**. The landlord is entitled to recovery of the \$50 filing fee, for a total entitlement of **\$2745.00**. The security deposit will be off-set from the award made herein.

Calculation for Monetary Order

Rental Arrears	\$2695.00
Filing Fees for the cost of this application	50.00
Less Security Deposit and applicable interest <i>to date</i>	-1347.50
Total Monetary Award	\$1397.50

Conclusion

I Order that the landlord retain the **deposit** of \$1347.50 in partial satisfaction of the claim and I grant the landlord an Order under Section 67 of the Act for the balance due of **\$1397.50**. If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

This Decision is final and binding on both parties.

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: June 10, 2013