



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Yenik Realty Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

MNR, MNSD, 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. A Monetary Order for unpaid rent - Section 67;
2. An Order to retain the security deposit - Section 38
3. An Order to recover the filing fee for this application - Section 72.

Both parties attended the hearing and were given full opportunity to present all relevant evidence and testimony in respect to their claims and to make relevant prior submission to the hearing and fully participate in the conference call hearing. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

Issue(s) to be Decided

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The undisputed relevant evidence in this matter is as follows. The tenancy began on July 01, 2012. The landlord gave the tenant a notice to vacate for cause in March 2013 and the tenant vacated April 08, 2013. Under the tenancy agreement rent in the amount of \$1250.00 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 \$625.00 which the landlord retains in trust.

The tenant testified they received the landlord's 1 Month Notice to End Tenancy for Cause posted to their door on March 14, 2013, but that it was absent of an effective date for the Notice, and was later accompanied by a letter- headed letter. The tenant claims they understood the Notice to be for one month from the date of the Notice. The tenant testified they have the purported Notice and letter in their possession, but did not

submit these documents into evidence. The landlord testified the tenant was given a completed 1 Month Notice for Cause and submitted a copy of the Notice into evidence. The tenant testified they vacated April 08, 2013 pursuant to their notice to vacate by the landlord but did not pay any rent for April 2013. The tenant testified they assumed the landlord would or could simply retain the security deposit as partial month's rent for April 2013. However, the parties agree that there was no communication in respect to administering the security deposit.

The landlord claims unpaid rent for April 2013 in the amount of \$1250.00.

Analysis

I find the tenant has not sufficiently supported their claim the landlord did not properly notify them of the effective date of the 1 Month Notice to End the tenancy, although it was available to the tenant to have provided the relevant evidence in support of their claims. Regardless, I find the tenant acted on the landlord's notice and vacated. Based on the testimony of both parties, I find that the tenant vacated April 08, 2013 and did not pay the rent for April, 2013. Section 26 of the Act states, in part, as follows:

Rules about payment and non-payment of rent

- 26** (1) 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.

As a result, I find that the landlord has established a monetary claim for \$1250.00 in unpaid rent for April 2013. The landlord is also entitled to recovery of the \$50 filing fee, for a total entitlement of **\$1300.00**. The security deposit will be off-set from the award made herein.

Calculation for Monetary Order

Unpaid rent for April 2013	\$1250.00
Filing Fees for the cost of this application	50.00
Less Security Deposit and applicable interest <i>to date</i>	-625.00
Total Monetary Award to landlord	\$675.00

Conclusion

I Order that the landlord retain the security deposit of \$625.00 in partial satisfaction of the claim and I grant the landlord an Order under Section 67 of the Act for the balance due of **\$675.00**. 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: July 23, 2013

Residential Tenancy Branch

