



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR MNSD FF CNR

Introduction:

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act (the Act) for orders as follows:

- a) An Order of Possession pursuant to sections 46 and 55 for unpaid rent;
- b) A monetary order pursuant to Section 67 for unpaid rent;
- c) An Order to retain the security deposit pursuant to Section 38; and
- d) An order to recover the filing fee pursuant to Section 72.

This hearing also dealt with an application by the tenant pursuant to the Residential Tenancy Act (the Act) for orders as follows:

- e) To cancel the Notice to End Tenancy for unpaid rent under section 46 due to her financial circumstances.

SERVICE

The tenant did not attend the hearing although she was also an applicant. The landlord attended the hearing and gave evidence that their Application for Dispute Resolution was served by registered mail. It was verified online as successfully delivered. . I find the documents were legally served pursuant to section 89 of the Act for the purposes of this hearing.

Issue(s) to be Decided:

The tenant vacated the unit on August 3, 2013 so the landlord no longer requires an Order of Possession. Has the landlord proved on the balance of probabilities that the tenant owes rent and the amount owed? Is the landlord entitled to recover filing fees also?

Is the tenant entitled to have the Notice to End Tenancy cancelled due to her financial circumstances?

Background and Evidence:

Only the landlord attended the hearing and was given opportunity to be heard, to present evidence and to make submissions. It is undisputed that the tenancy commenced in March 2013, that rent is \$800 a month and a security deposit of \$400

was paid on February 20, 2013. It is undisputed that the tenant has not paid rent for July or August but she made an Application to cancel the Notice to End Tenancy for unpaid rent because she had lost her job and she was a single Mom. The landlord claims \$800 rent for each of July and August 2013.

In evidence is the Notice to End Tenancy for unpaid rent, the registered mail receipt and a lease. The tenant did not provide any documentary evidence to dispute the landlord's claim and did not attend the hearing. On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

The onus is on the applicant to prove on a balance of probabilities their claim. I find the landlord has satisfied the onus. Her evidence is well supported by the lease and documents submitted. I find the tenant owes \$1600 in rent for July and August 2013.

On the tenant's application, the onus is on her to show why the Notice should be cancelled. I find no provision in the Act to cancel a Notice to End Tenancy for unpaid rent based on poor financial circumstances. I dismiss the application of the tenant.

Conclusion:

I find the landlord is entitled to a monetary order as calculated below. I find they are entitled to retain the security deposit to offset the amount owing and to recover filing fees for this application.

I dismiss the application of the tenant in its entirety without leave to reapply. No filing fees were paid for her application.

Calculation of Monetary Award:

Rent July and August 2013	1600.00
Less security deposit (no interest 2013)	-400.00
Total Monetary Order to Landlord	1200.00

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: August 13, 2013

Residential Tenancy Branch