



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LLA Investments Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR MNR MNSD MNDC FF

Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the *Residential Tenancy Act* (the "Act") for an order of possession for unpaid rent or utilities, for a monetary order for unpaid rent or utilities, for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and to recover the filing fee.

An agent for the landlord (the "agent") appeared at the teleconference hearing and gave affirmed testimony. During the hearing the agent was given the opportunity to provide his evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice") was considered. The agent testified that the Notice and evidence was served on the tenant by registered mail on August 10, 2013 and a registered mail tracking number was submitted in evidence. The agent stated that the registered mail package was addressed to the tenant at the rental unit address and that the tenant did not vacate the rental unit until August 15, 2013. The agent testified that according to the postal registered mail tracking website, the package was successfully delivered to the tenant on August 13, 2013 when the tenant signed for the package. Based on the above, I find the tenant was served in accordance with the *Act*.

Preliminary and Procedural Matters

At the outset of the hearing, the landlord's claim was amended to include a request for to retain all or a portion of the tenant's security deposit as the details of dispute clearly indicate that the landlord is seeking to keep the security deposit as part of their application. I do not find that this amendment would prejudice the tenant as I find the

landlord's application clearly indicated that the landlord requested to retain the security deposit as part of their monetary claim.

In addition, the agent testified that the tenant vacated the rental unit on August 15, 2013, and as a result, requested to withdraw their claim for an order of possession as the landlord has already received possession of the rental unit back from the tenant. I find that the landlord's withdrawal of their request for an order of possession does not prejudice the tenant in any way.

Issues to be Decided

- Is the landlord entitled to a monetary order under the *Act*, and if so, in what amount?
- What should happen to the tenant's security deposit under the *Act*?

Background and Evidence

The landlord submitted a copy of the written tenancy agreement in evidence. A month to month tenancy agreement began on April 1, 2013. Monthly rent in the amount \$740.00 was due on the first day of each month. The tenant paid a security deposit of \$370.00 at the start of the tenancy which the landlord continues to hold.

The agent testified that the tenant failed to pay a portion of June 2013 rent in the amount of \$170.00, and also failed to pay a portion of July 2013 in the amount of \$170.00, leaving a balance owing by the tenant in the amount of \$340.00 in unpaid rent. The agent stated that he is seeking the recovery of the filing fee.

The landlord submitted a copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "10 Day Notice") dated June 6, 2013 showing \$170.00 owing due June 1, 2013, and with an effective vacancy date of June 16, 2013. The agent stated the tenant did not dispute the 10 Day Notice or pay the \$170.00 owing for June 2013, and subsequently owed \$170.00 for July 2013 also. The agent stated that the tenant vacated the rental unit on August 15, 2013 and has not provided her forwarding address to the landlord to date.

The landlord submitted the 10 Day Notice, proof of service document for the 10 Day Notice, registered mail receipts and tracking number, and the tenancy agreement in evidence.

Analysis

Based on documentary evidence, the undisputed testimony of the agent, and on the balance of probabilities, I find the following.

Monetary claim of landlord – The agent testified that the tenant failed to pay \$170.00 from June 2013 rent, and failed to pay \$170.00 for July 2013 rent, for a total of \$340.00 in unpaid rent. Pursuant to section 26 of the *Act*, a tenant must pay rent when it is due in accordance with the tenancy agreement. Therefore, I find the tenant breached section 26 of the *Act* by failing to pay full rent for June 2013 and July 2013 and owes \$340.00 in unpaid rent.

Based on the above, I find the landlord has met the burden of proof and I grant the landlord \$340.00 for unpaid rent for June 2013 and July 2013 as claimed by the landlord.

As the landlord's application had merit, I grant the landlord the recovery of the \$50.00 filing fee.

Monetary Order – I find that the landlord has established a total monetary claim of **\$390.00** comprised of \$340.00 for unpaid rent, plus the \$50.00 filing fee. I find this claim meets the criteria under section 72(2)(b) of the *Act* to be offset against the tenant's security deposit which the landlord continues to hold in the amount of \$370.00 which has accrued \$0.00 in interest to date. I authorize the landlord to retain the tenant's full security deposit of \$370.00 in partial satisfaction of the landlord's monetary claim, and I grant the landlord a monetary order pursuant to section 67 of the *Act* for the balance owing to the landlord in the amount of **\$20.00**. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

Conclusion

I find that the landlord is entitled to a monetary claim of \$390.00 comprised of \$340.00 for unpaid rent, plus the \$50.00 filing fee. I authorize the landlord to retain the tenant's full security deposit of \$370.00 in partial satisfaction of the landlord's monetary claim, and I grant the landlord a monetary order pursuant to section 67 of the *Act* for the balance owing to the landlord in the amount of \$20.00. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: September 24, 2013

Residential Tenancy Branch

