



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF, CNC, MT, RR, FF, O

Introduction

This hearing was convened by way of conference call concerning applications made by the landlord and by the tenant. The landlord applied for an Order of Possession and a Monetary Order for unpaid rent or utilities, and to recover the filing fee from the tenant for the cost of the application. The tenant applied for; an order cancelling a notice to end tenancy for cause; to allow more time to make the application to cancel the notice; to allow the tenant to reduce rent for services, repairs or facilities agreed upon but not provided; and to recover the filing fee for the cost of this application from the landlord.

The landlord filed his application on August 16, 2013 and personally served the tenant with a copy of the application and Notice of Hearing documents in the presence of a witness on August 21, 2013. In the absence of evidence contrary to this, I find the tenant was served the documents in accordance with the *Residential Tenancy Act*.

The tenant made her application on August 7, 2013. However, the tenant did not appear for this hearing despite being served notice of it in accordance with the *Act*. Based on this, I dismiss the tenant's application without leave to re-apply. The landlord attended the hearing to give affirmed testimony which was carefully considered in this Decision.

At the start of the hearing the landlord testified that the tenant had left the rental unit on August 31, 2013 and as a result, withdrew his request for an Order of Possession.

Issue(s) to be Decided

- Is the landlord entitled to a monetary order for unpaid rent for August, 2013?

Background and Evidence

The landlord testified that the tenancy started on July 1, 2013 on a month-to-month basis. No written tenancy agreement was signed by the landlord but the landlord

collected a security deposit from the tenant in the amount of \$300.00 on July 1, 2013 which the landlord still retains. Rent in the amount of \$700.00 was payable by the tenant on the last day of each month. No move-in or move-out condition inspection reports were completed.

The landlord testified that the tenant failed to pay rent which was due on July 31, 2013 in the amount of \$700.00 for August, 2013. As a result, the landlord personally served the tenant with a witness, a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on August 3, 2013. The notice had an expected date of vacancy of August 11, 2013. As a result, the landlord seeks to recover the balance of \$700.00 in rent arrears.

The tenant did not appear for this hearing but in her written submissions claims that she had tried to pay her rent but the landlord refused to accept this. This was denied by the landlord.

Analysis

Having examined the notice to end tenancy, I find that it meets the requirements of the *Residential Tenancy Act* in terms of its contents on the approved form.

Whilst the tenant did make an application within the allowable time limits to dispute the notice to end tenancy, the tenant failed to appear for the hearing to explain the documentary evidence to support the reasons she claimed on the application as to why the rent was not paid. As a result, I accept the landlord's testimony that the tenant has not paid rent for the month of August, 2013 as per the notice to end tenancy and find that the landlord is entitled to \$700.00 in unpaid rent.

As the landlord has been successful in this matter, the landlord is also entitled to recover from the tenant the \$50.00 filing fee for the cost of this application. Therefore, the total amount payable by the tenant to the landlord is \$750.00.

As the landlord already holds a \$300.00 security deposit, I order the landlord to retain this amount in partial satisfaction of the claim awarded pursuant to Section 72(2) (b) of the *Act*. As a result, the landlord is awarded \$450.00.

Conclusion

For the reasons set out above, I grant the landlord monetary compensation pursuant to Section 67 of the *Residential Tenancy Act* in the amount of **\$450.00**. 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.

The tenant's application is dismissed without leave to re-apply.

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: September 18, 2013

Residential Tenancy Branch

