



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WALL FINANCIAL CORPORATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNDC, FF

Introduction

The landlord applies for an order of possession pursuant to a ten day Notice to End Tenancy dated September 3, 2013 and for a monetary award for unpaid September rent, October and November rent and late fees.

Issue(s) to be Decided

Does the relevant evidence presented at hearing show, on a balance of probabilities that the landlord is entitled to the relief requested.

Background and Evidence

The rental unit is a one bedroom apartment. The tenancy started in August 2013. The monthly rent is \$1195.00 and the landlord holds a \$597.50 security deposit.

It is agreed the tenant did not pay the September rent when due and that the landlord posted its ten day Notice on the tenant's door on September 3rd.

The landlord's representative Ms. M. testifies that the tenant later paid \$820.00 on September 10th and \$200.00 on September 19th for a total of \$1020.00.

Canada Post records show the tenant signed for the registered mail containing the landlord's application for dispute resolution on October 2nd. He has paid nothing since.

The tenant testified that he had rent receipts from the landlord to show a payment of \$820.00 on September 10th (consonant with Ms. M.'s testimony) and "about \$400.00" at

a later date. The tenant did not have that latter receipt with him for the hearing. He has not submitted the receipt, or any other documentary evidence.

The tenant takes no issue with the landlord's claim of late fees.

Analysis

I accept Ms. M.'s evidence about rent payments. Firstly, she is in the business of taking rent money, making a record of it and issuing a receipt for it. I consider it unlikely that she would give false evidence about a rent payment knowing that the tenant had a receipt from her for a different amount. Secondly, the tenant has not submitted his receipts as evidence. The issue of what, if anything, he owes for rent is an issue fairly raised by the application and any reasonable person could see that proof of payment of money in reduction of the amount claimed would be pertinent. Further, the tenant claimed close familiarity with the Residential Tenancy Branch system, having worked, he says, for the minister responsible for the Branch for five years. So I conclude that it was not through ignorance of the process that he failed to file his alleged receipt for "about \$400.00."

I find that since issuance of the ten day Notice to End Tenancy, the tenant has paid a total of \$1020.00 towards outstanding rent.

The ten day Notice, posted to the tenant's door on September 3rd, was deemed by s.90 of the *Residential Tenancy Act* (the "Act") to have been received by him on September 6th. He did not pay the \$1195.00 demanded in the Notice within the following five days nor did he make application to cancel the Notice. As a result, by operation of s.46 of the *Act*, the tenancy ended September 17, 2013 and the landlord is entitled to an order of possession.

The landlord is also entitled to a monetary award of \$175.00 for the balance of September rent, \$1195.00 for loss of October rental income, \$40.00 undisputed late charges plus the \$50.00 filing fee for this application. The landlord's representative withdrew its claim for loss of November rental income.

I authorize the landlord to retain the \$597.50 security deposit in reduction of the \$1460.00 award. There will be a monetary order against the tenant for the remainder of \$862.50.

Conclusion

The landlord will have an immediate order of possession and a monetary order against the tenant in the amount of \$862.50.

This decision was given verbally after hearing.

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: October 30, 2013

Residential Tenancy Branch

