



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MND MNR MNSD 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, a monetary order for damage to the unit, site or property, a monetary order for unpaid rent or utilities, for authorization to keep all or part of the security deposit, and to recover the filing fee.

The landlord attended the teleconference hearing. The hearing process was explained to the landlord and during the hearing the landlord 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 of Hearing") was considered. The landlord submitted a document in evidence which supports that his agent, AL, served the tenant, CH, with the Notice of Hearing and evidence on September 11, 2013 and is signed by the tenant, CH and witnessed by third party, RT. The landlord clarified that the document refers to "monetary order", however, he used the incorrect term and was actually referring to the Notice of Hearing and evidence, which were related to his application for a monetary order. I accept the landlord's undisputed testimony that the landlord's agent, AL, served the tenant personally on September 11, 2013 with the Notice of Hearing and evidence, which was signed by the tenant, and witnessed by third party, RT. Based on the above, I find the tenant was sufficiently served under the *Act*.

Preliminary and Procedural Matters

At the outset of the hearing, the landlord testified that the tenant vacated the rental unit on September 14, 2013, since filing his application. As a result, the landlord requested

to withdraw his request for an order of possession as the tenant had already given up possession of the rental unit by vacating the rental unit on September 14, 2013.

The landlord also requested to reduce his monetary claim from the original amount of \$4,250.00 to \$2,970.15. I find that a reduction of the monetary claim does not prejudice the tenant, and as a result, the landlord was permitted to reduce his monetary claim to \$2,970.15.

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

A copy of the tenancy agreement was submitted in evidence. A month to month tenancy agreement between the parties began on July 15, 2012. Monthly rent in the amount \$1,200.00, which included utilities, was due on the first day of each month. The tenant paid a \$600.00 security deposit at the start of the tenancy which the landlord continues to hold.

The landlord applied for dispute resolution on September 10, 2013. The landlord testified that the tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "10 Day Notice") dated September 01, 2013 on September 01, 2013 via personal service on the tenant at the rental unit, which was witnessed by third party, KF. The 10 Day Notice listed an effective vacancy date of September 11, 2013. The landlord stated that the tenant did not dispute the 10 Day Notice and vacated the rental unit on September 14, 2013, which was four days after the landlord filed his application for dispute resolution.

The landlord is seeking a monetary order in the amount of \$2,970.15 comprised of the following:

Item Description	Amount
1. Unpaid rent for August 2013	\$1,200.00
2. Unpaid rent for September 2013	\$1,200.00
3. Damage to plumbing	\$570.15
TOTAL MONETARY CLAIM	\$2,970.15

The landlord provided undisputed testimony confirming the amounts described in the table above. The landlord stated that he is waiving the unpaid portion of July rent that the tenant failed to pay.

The landlord testified that the tenant did not dispute the 10 Day Notice after being served on September 01, 2013. The amount listed as owed by the tenant on the 10 Day Notice is \$2,450.00, however, confirmed that the landlord is only seeking \$2,400.00 in unpaid rent comprised of \$1,200.00 owing for August 2013, and \$1,200.00 owing for September 2013. The landlord stated that he was able to find new renters effective October 1, 2013, and as a result, did not suffer a loss of October 2013 rent.

The landlord is seeking compensation for damage to the rental unit plumbing in the amount of \$570.15. The landlord stated that on June 25, 2013, the tenant called him to advise that there was a problem with the toilet. The landlord testified that he called a plumber who attended the rental unit and found diapers and feminine hygiene products plugging the toilet. The landlord stated that at the start of the tenancy, the tenant was verbally advised that the rental unit toilet was part of a septic system, and the tenant confirmed that he was well aware of how septic systems worked and that he could not flush anything down the toilet that had not been eaten first. The landlord submitted in evidence an invoice from a plumbing company dated June 25, 2013, which reads in part "Remove, clean pump of debris (female and baby products). Re-install pump" and is in the amount of \$570.15, paid by landlord's cheque number 231 in the amount of \$570.15. The landlord stated that the tenant was negligent and that the landlord should be compensated for the damage to the rental unit plumbing.

The landlord submitted a copy of the tenancy agreement, 10 Day Notice, Proof of Service, plumbing invoice, and a photocopy of cheque #231 in evidence.

Analysis

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

Claim for unpaid rent – The landlord testified that the tenant failed to pay \$1,200.00 in rent for August 2013, and \$1,200.00 for September 2013. Pursuant to section 26 of the *Act*, a tenant must pay rent when it is due in accordance with the tenancy agreement. Based on the above, **I find** the tenant breached section 26 of the *Act* by failing to pay rent for August 2013 and September 2013 on the day rent was due, the first day of each month, as claimed by the landlord. Therefore, **I find** the landlord has met the burden of

proof and **I grant** the landlord **\$2,400.00** for unpaid rent comprised of \$1,200.00 for unpaid August 2013 rent, and \$1,200.00 for unpaid September 2013 rent.

Claim for damage to plumbing – The landlord is seeking \$570.15 for damage to the rental unit plumbing caused by the tenant. The landlord testified that the tenant was negligent in flushing diapers and feminine hygiene products down the toilet which were discovered by the plumber who was called when the tenant complained in June 2013 that the toilet was not working.

I accept the landlord's undisputed testimony that the tenant confirmed at the start of the tenancy that he was aware that he could not flush diapers and feminine hygiene products down the toilet and that the tenant confirmed that he was aware that you could only flush items down the toilet that had been previously eaten. I also accept that the tenant is responsible for the damage caused to the rental unit plumbing as a result of flushing diapers and feminine hygiene products down the toilet.

I find the landlord has met the burden of proof by submitting in evidence an invoice from a plumbing company dated June 25, 2013, which reads in part "Remove, clean pump of debris (female and baby products). Re-install pump" and is in the amount of \$570.15, paid by landlord's cheque number 231 in the amount of \$570.15. Based on the above, **I find** the landlord is entitled to compensation in the amount of **\$570.15** for damage to the rental unit plumbing caused by the tenant.

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 **\$3,020.15** comprised of \$2,400.00 in unpaid rent, \$570.15 for damage to rental unit plumbing, 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 \$600.00, which has accrued \$0.00 in interest to date. **I authorize** the landlord to retain the tenant's full security deposit of \$600.00 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 by the tenant to the landlord in the amount of **\$2,420.15**. 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

The landlord has established a total monetary claim of \$3,020.15 comprised of \$2,400.00 in unpaid rent, \$570.15 for damage to rental unit plumbing, plus the \$50.00

filing fee. The landlord has been authorized to retain the tenant's full security deposit of \$600.00 in partial satisfaction of the landlord's monetary claim.

The landlord has been granted a monetary order for the balance owing by the tenant to the landlord in the amount of \$2,420.15. 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: November 07, 2013

Residential Tenancy Branch

