



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Ascent Real Estate Management Corp.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order of Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67; and
3. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the Landlord entitled to an Order of Possession?

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on July 1, 2013. Rent of \$1,290.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected \$645.00 as a security deposit from the Tenant. The Tenant failed to pay rent for October and November 2013 and on November 20, 2013 the Landlord served the Tenant with a 10

day notice to end tenancy for unpaid rent (the "Notice") by posting the Notice on the door. The Tenant has not made an application for dispute resolution and has not paid the arrears. The Tenant did not pay December 2013 rent and moved out of the unit mid December 2013. The Landlord withdraws the claim for the order of possession. The Landlord claims **\$3,910.00 and \$40.00** for a NSF charge for the return of the October rent cheque. The tenancy agreement addendum provides for this fee amount.

Analysis

Section 26 of the Act provides that a tenant must pay the rent when and as provided under the tenancy agreement.

Based on the Landlord's evidence I find that the Tenant has not paid rental arrears. Given these facts, I find that the Landlord has established a monetary entitlement for **\$3,870.00** in unpaid rent. The Landlord is also entitled to recovery of the **\$50.00** filing fee for a total monetary amount of **\$3,920.00**.

Section 7 of the Residential Tenancy Regulations provides that a landlord may charge a administration fee for an NSF cheque of no more than \$25.00 where such provision is contained in the tenancy agreement. Section 6 of the Act provides that A term of a tenancy agreement is not enforceable if the term is inconsistent with this Act or the regulations. As the tenancy agreement provides for an amount greater than allowed by the Regulations, I find that the tenancy agreement provision is not enforceable and that the Landlord has not established an entitlement to \$40.00 for an administrative fee. I dismiss this claim.

Setting the security deposit of \$645.00 plus zero interest off the entitlement leaves **\$3,275.00** owed by the Tenant to the Landlord.

Conclusion

I order that the Landlord retain the **deposit** and interest of \$645.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act

for the balance due of **\$3,275.00**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

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: January 06, 2014

Residential Tenancy Branch

