



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPITAL REGION HOUSING CORPORATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing was convened by way of conference call in response to a Landlord's Application for Dispute Resolution (the "Application") made by the Landlord for an Order of Possession and a Monetary Order for unpaid rent. The Landlord also applied to keep the Tenant's security deposit and to recover the filing fee for the cost of the Application.

The Landlord's agent appeared for the hearing with a witness who both provided affirmed testimony during the hearing and written evidence was submitted in advance of the hearing. There was no appearance for the Tenant during the 11 minute duration of the hearing. As a result, I continued to hear the Landlord's evidence in relation to the service of the hearing documents for these proceedings.

The Landlord's agent testified that the Tenant had been served with a copy of the Application, the Notice of Hearing documents and the Landlord's written evidence by registered mail on March 27, 2014. The Landlord provided the Canada Post tracking number and report as evidence for this method of service. The Landlord's agent testified that the documents had been returned back to them unclaimed. Section 90(a) of the Act explains that documents served by mail are deemed to have been received five days after they are mailed. A failure or neglecting to pick up mail is not sufficient to avoid service or file a review application. Therefore, I find that the Tenant was served with the documents pursuant to section 89(1) (c) of the Act and the deeming provisions of the Act allow me to determine that the Tenant was deemed served on April 1, 2014.

At the start of the hearing, the Landlord's agent testified that the Tenant had left shortly after being issued with a notice to end tenancy, being sometime in the middle of March, 2014. As a result, the Landlord's agent withdrew the request for an Order of Possession. The Landlord had also made a monetary claim for anticipated rent for April and May, 2014 in the amount of \$1,400.00. As the Tenant vacated the rental suite in March, 2014, the Landlord's agent withdrew this portion of the Landlord's monetary claim.

As a result, I have carefully considered in this decision the undisputed testimony of the Landlord's agent and witness as well as the written evidence provided.

Issue(s) to be Decided

- Is the Landlord entitled to unpaid rent for March, 2014?
- Is the Landlord entitled to keep all of the Tenant's security deposit in partial satisfaction of the Landlord's monetary claim?

Background and Evidence

The Landlord's agent testified that this tenancy started on February 1, 2014 and was documented through a signed written tenancy agreement which was provided as evidence. The Landlord collected a \$350.00 security deposit from the Tenant on January 28, 2014 which the Landlord still retains. Rent was payable each month by the Tenant in the amount of \$700.00 on the first day of each month.

The Landlord's agent testified that the Tenant failed to pay full rent on March 1, 2014 in the amount of \$700.00. The Landlord's witness testified that as a result, the Tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") by attaching it to the Tenant's door. The Notice, which was provided as evidence, shows an expected date of vacancy of March 17, 2014 for a total amount of \$700.00 due on March 1, 2014.

Analysis

Based on the affirmed testimony of the Landlord's agent and witness as well as the written evidence including the Notice, I find that the Tenant is liable for unpaid rent for March, 2014 in the amount of \$700.00. The Tenant failed to appear for this hearing to dispute the evidence and therefore the Landlord is issued with a Monetary Order for this amount.

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, pursuant to Section 72(1) of the Act. Therefore, the total amount awarded to the Landlord is \$750.00.

As the Landlord already holds the Tenant's \$350.00 security deposit, I order the Landlord to retain this amount in partial satisfaction of the claim awarded, pursuant to Section 38(4) (b) of the Act. As a result, the Landlord is awarded \$400.00.

Conclusion

For the reasons set out above, I grant the Landlord a Monetary Order pursuant to Section 67 of the Act in the amount of **\$400.00**. This Order must be served on the Tenant and may then be filed in the Provincial Court (Small Claims) 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: May 07, 2014

Residential Tenancy Branch

