



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF, O

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the “Application”) made by the Landlord for an Order of Possession and a Monetary Order for unpaid rent or utilities. The Landlord also applied to keep the Tenant’s security deposit, to recover the filing fee for the cost of the Application and for ‘Other’ issues of which none were identified during the hearing.

The Landlord appeared for the hearing and provided affirmed testimony as well as written evidence prior to the hearing.

The Landlord testified that the Tenant had been personally served with a copy of the Application and the Notice of Hearing documents at the rental suite in the presence of two police officers on April 16, 2014. Based on this, I find that the Landlord served the Tenant the required documentation pursuant to section 89(1) (a) of the Act.

There was no appearance for the Tenant during the 26 minute duration of the hearing or any submission of written evidence prior to the hearing, despite the Tenant being served the hearing documents in accordance with the Act. As a result, I carefully considered the Landlord’s undisputed affirmed testimony and the written evidence in this decision.

At the start of the hearing the Landlord testified that shortly after the Tenant was issued with the notice to end tenancy, the Tenant abandoned the rental suite on April 16, 2014. As a result, the Landlord did not require an Order of Possession and this portion of her Application is now dismissed. The Landlord also withdrew her monetary claim for utilities as she was still in the process of gathering important and necessary documents to prove this portion of the claim. As a result, I dismissed this portion of the Landlord’s monetary claim with **leave** to re-apply. I now focus my attention to the Landlord’s monetary claim for unpaid rent.

Issue(s) to be Decided

- Is the Landlord entitled to unpaid rent for April, 2014 and lost rent for May, 2014?

Background and Evidence

The Landlord testified that this tenancy started on December 1, 2013 for fixed term of one year which was due to end on November 30, 2014. However, the tenancy ended when the Tenant abandoned the unit on April 16, 2014.

The Landlord collected a security deposit in the amount of \$512.20 and a pet damage deposit in the amount of \$100.00 from the Tenant on November 24, 2013 which the Landlord still retains. Rent was established in the written tenancy agreement in the amount of \$1,025.00 payable by the Tenant on the first day of each month.

The Landlord testified that the Tenant had indicated in e-mails that she had wanted to leave the fixed term tenancy on May 1, 2014. The Landlord's relationship with the Tenant had deteriorated at this point and the Landlord was happy for the Tenant to leave on this date. The Landlord attempted to show the rental suite to a number of potential renters in March, 2014 but testified that the Tenant impeded the viewings by mentioning false statements to the potential renters that put them off renting the suite. One of the examples testified to by the Landlord was at the end of March, 2014; during this viewing the potential renter asked the Tenant why her bed was in the living room and the Tenant indicated that there was too much noise coming into the bedroom from the street. The Landlord testified that this was not true and the Tenant was doing this out of malice to hurt the Landlord. The Landlord testified that after the Tenant had vacated the rental suite, this left her little time to re-rent the suite for May, 2014 and it still remains vacant.

The Landlord testified that on April 1, 2014 the Tenant failed to pay full rent in the amount of \$1,025.00. As a result, the Landlord served the Tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "Notice") by attaching it to the Tenant's door on April 2, 2014. The Notice, which was provided as evidence, shows an expected date of vacancy of April 14, 2014 for a total amount of \$1,025.00 due on April 1, 2014.

Analysis

Based on the undisputed affirmed testimony of the Landlord and the Landlord's written evidence including the Notice, as well as the absence of any evidence from the Tenant to dispute this, I make the following findings.

Based on the Notice served to the Tenant, which complied with the Act, I find that the Tenant failed to pay rent for April 1, 2014 in the amount of \$1,050.00.

In addition, I accept the Landlord's testimony that even though she had been given sufficient notice by the Tenant that the rental unit was intended to be vacated by May 1, 2014, the Tenant impeded the ability of the Landlord to re rent the suite for May 1, 2014 and as the Tenant left the tenancy in the middle of April, 2014 this did not allow sufficient time for the Landlord to re-rent the suite for May, 2014. As a result, I award the loss of May, 2014 rent to the Landlord in the amount of \$1,025.00. Therefore the total amount awarded to the Landlord is \$2,050.00.

However, the amount claimed on the Landlord's Application was \$2,037.50 and as the Tenant had not been put on notice for the claim of the extra amount because she had left the rental suite without giving a forwarding address, I am only able to award the Landlord \$2,037.50 claimed in the Application.

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 \$2,087.50. As the Landlord already holds a total of \$612.50 in the Tenant's deposits, 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 \$1,475.00.

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 **\$1,475.00**. 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 Act.

Dated: May 27, 2014

Residential Tenancy Branch

