



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Prompton Real Estate Services
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 first named 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 only evidence served with this package was a copy of the notice to end tenancy.

The Landlord states that the second named Tenant was also served at the dispute address by registered mail on the same date but that this Tenant had moved out of the unit “quite some time ago”. Neither Tenant participated in the conference call hearing. Given that the second named Tenant was not resident at the dispute unit where the application was served, I find that the Landlord has failed to serve this Tenant as required under Section 89 of the Act. I therefore dismiss the application as against the second named Tenant with leave to reapply.

The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Preliminary Matter

At the onset of the Hearing the Landlord stated that the Tenant had moved out of the unit on or around May 28, 2014 and withdrew its claim for an order of possession. After hearing the claims in the application the Landlord sought to add additional claims, including damages to the unit. It is noted that the application was not amended prior to this hearing. The Landlord stated that the Tenant was provided an evidence package that included evidence to support the additional claims. The Landlord stated that this evidence package was served on the Tenant on June 20, 2014 at his parent's address obtained from the Tenant's application information. The Landlord stated that the Tenant had verbally informed the Landlord that he would be moving back home. As the Landlord has not amended the application, noting that the second evidence package does not include any revision to the original application and considering that to include new claims would prejudice the Tenant's right to be informed and to prepare for a claim, I decline to hear and determine the additional claims. The Landlord remains at liberty to make a future application in relation to the additional claims.

Issue(s) to be Decided

Is the Landlord entitled to unpaid rents?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy began on December 1, 2012. Rent of \$934.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected \$450.00 as a security deposit from the Tenant. The Tenant owed arrears and failed to pay rent for May 2014. On May 2, 2014 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 Notice sets out the amount of \$1,868.00 owing. The Tenant has not made an application for dispute resolution, has not paid the arrears and moved out of the unit on May 28, 2014. The quantum of the Landlord's claim as set out in the application is \$1,868.00.

Analysis

The tenancy agreement provides for the payment of \$934.00 in rent each month on the first day of each month. Section 26 of the Act provides that a tenant must pay rent when it is due under the tenancy agreement. Based on the Landlord's undisputed evidence I find that the Tenant has not paid the rent as claimed and that the Landlord is entitled to **\$1,868.00** in unpaid rent. The Landlord is also entitled to recovery of the \$50.00 filing fee for a total monetary amount of **\$1,918**. Deducting the security deposit of \$450.00 plus zero interest off the entitlement leaves **\$1,468.00** owed by the Tenant to the Landlord.

Conclusion

I order that the Landlord retain the **deposit** and interest of \$450.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the balance due of **\$1,468.00**. 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: July 03, 2014

Residential Tenancy Branch

