



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OPC, OPR, MNR, MNSD, MNDC, MND, FF

Introduction

This hearing was convened in response to applications by the landlord and the tenant.

The landlord's application is seeking orders as follows:

1. For an order of possession;
2. For a monetary order for unpaid rent or money owed;
3. To keep all or part of the security deposit; and
4. To recover the cost of filing the application.

The tenant's application is seeking orders as follows:

1. To cancel a notice to end tenancy for cause.

Tenant's application

This matter was set for hearing by telephone conference call at 9:30 A.M on this date. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the landlord. Therefore, as the tenant did not attend the hearing by 9:40 A.M, and the landlord appeared and was ready to proceed, I dismiss the tenant's application without leave to reapply.

Landlord's application

The landlord attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail sent on May 12, 2014, a Canada post tracking number was provided as evidence of service, the tenants did not appear.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenant has been duly served in accordance with the Act.

Preliminary matter

At the outset of the hearing the landlord stated that the tenant vacated the rental premises on June 5, or June 6, 2014, and an order of possession is no longer required.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent or money owed?

Is the landlord entitled to keep all or part of the security deposit?

Is the landlord entitled to recover the cost of filing the application?

Background and Evidence

The tenancy began in December 2013. Rent in the amount of \$850.00 was payable in advance on the 30th day of each month. A security deposit of \$425.00 was paid by the tenant. The tenant vacated the premises on either June 5 or June 6, 2014.

The landlord testified the tenant failed to pay rent for May 2014, and was served with a 10 Day Notice to End Tenancy on May 2, 2014, in person. The landlord stated the tenant did not pay any rent for May 2014, and did not vacate the premises on the effective date of the notice. The landlord stated the tenant vacated the premises on either June 5 or June 6, 2014. The landlord seeks to recover unpaid rent for May and June 2014 in the total amount of \$1,700.00

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Section 26 (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

The evidence of the landlord was the tenant failed to pay rent for May and June 2014. I find that the tenant has breached the Act, when they failed to pay rent under the Act and tenancy agreement.

I find the landlords have established a total monetary claim of **\$1,750.00** comprised of unpaid rent for May, June 2014 and the \$50.00 fee paid by the landlord for this application.

I order that the landlords retain the deposit and interest of **\$425.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$1,325.00**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The landlord is granted a monetary order for rent due, and may keep the security deposit in partial satisfaction of the claim. The landlord is granted a formal order for the balance due.

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: June 16, 2014

Residential Tenancy Branch

