



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MND, MNR, MNSD, FF, O

Introduction

This hearing was convened by way of conference call in response to a Landlords' Application for Dispute Resolution (the "Application") for an Order of Possession based on a notice to end tenancy for repeatedly late payment of rent and unpaid rent. The Landlords also applied for a Monetary Order for unpaid rent, for damages to the rental unit, to keep the Tenant's security and pet damage deposits, and for the filing fee.

Both Landlords appeared for the hearing and provided affirmed testimony as well as written evidence prior to the hearing. The Landlords testified that they served the Tenant with a copy of the Application and the Notice of Hearing documents on August 11, 2014 by registered mail.

The Landlords provided the Canada Post tracking number in written evidence to support this method of service. Section 90(c) of the *Residential Tenancy Act* (the "Act") states that a document sent by registered mail is deemed to have been received five days after it is mailed. Based on the evidence of the Landlord, and in the absence of any evidence from the Tenant to dispute this, I find that the Landlord served the Tenant with the required documents for this hearing in accordance with Section 89(1) (c) of the Act.

There was no appearance by the Tenant during the 17 minute duration of the hearing and there was no submission of written evidence by the Tenant prior to this hearing, despite being served notice of this hearing in accordance with the Act.

As a result, I have carefully considered the undisputed affirmed testimony and written evidence of the Landlords in this decision as follows.

The Landlords testified that the since the time of making this Application the Tenant left the rental suite on a unknown date but the rental suite was not fully vacated by the Tenant until the end of August, 2014. Therefore, the Landlords no longer required an

Order of Possession. However, I did allow the Landlord's to amend their Application, pursuant to Section 64(3) (c) of the Act, to increase their monetary claim to include unpaid rent for August, 2014 for a total amount of \$1,650.00. The Landlord explained that this is the only monetary claim he wanted to deal with in this hearing.

Issue(s) to be Decided

- Are the Landlords entitled to a Monetary Order for unpaid rent for July and August, 2014?
- Are the Landlords entitled to keep all of the Tenant's deposits in partial satisfaction of the Landlords' monetary claim for unpaid rent?

Background and Evidence

The Landlords testified that this month to month tenancy began on June 8, 2013. A written tenancy agreement was completed and the Landlords testified that rent was payable under the agreement in the amount of \$1,100.00 on the first day of each month.

The Landlords testified that the Tenant paid a \$550.00 security deposit at the start of the tenancy and a \$250.00 pet damage deposit in October, 2013, both of which the Landlord still retains.

The Landlords explained that the Tenant was habitually late paying his rent and as a result he was issued with a notice to end tenancy for repeatedly late payment of rent on May 30, 2014.

The Landlords explained that the Tenant informed them that he would be vacating the rental suite in the middle of July, 2014 and as result provided the Landlords with half of the month's rent in the amount of \$550.00 for this month. However, the Tenant failed to vacate the suite on this date and time and a cheque provided for the remainder of July, 2014 was dishonored; a copy of this was provided in written evidence.

The Landlords also served the Tenant with a notice to end tenancy for unpaid rent on August 2, 2014 for the July, 2014 unpaid rent. However, by this time the Tenant had left the rental suite and the Tenant's mother was in the process of moving the Tenant out which was fully vacated at the end of August, 2014.

As a result, the Landlords now claim \$550.00 relating to unpaid rent for July, 2014 and unpaid rent for August, 2014 for the time the Tenant still had control and possession of the rental unit.

Analysis

I accept the oral and written evidence of the Landlords, including the notices to end tenancy provided in written evidence, and I find that the Tenant failed to pay rent for the last two weeks of July, 2014 as the rent cheque was dishonored.

I also accept the undisputed evidence of the Landlords that the Tenant did not vacate the rental suite of his belongings and give back vacant possession to the Landlord until the end of August, 2014 and thereby causing loss of August, 2014 to the Landlords. Therefore, I find that the Landlords are entitled to unpaid rent for a total amount of \$1,650.00 (1,100 + 550).

As the Landlords have been successful in this matter, the Landlords are also entitled to recover the **\$50.00** filing fee pursuant to Section 72(1) of the Act. Therefore, the total amount payable by the Tenant to the Landlords is **\$1,700.00**.

As the Landlords already hold the Tenant's **\$800.00** in deposits, and no interest is payable on this amount, I order the Landlords to retain this amount in partial satisfaction of the claim awarded pursuant to Section 38(4) (b) of the Act. As a result, the Landlords are provided with a Monetary Order in the amount of **\$900.00**.

Conclusion

For the reasons set out above, I grant the Landlords a Monetary Order pursuant to Section 67 of the Act in the amount of **\$900.00**. This order must be served on the Tenant and may then be enforced in the Provincial Court (Small Claims) as an order of that court.

The remainder of the Landlord's Application is dismissed.

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: October 08, 2014

Residential Tenancy Branch

