



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with a landlord's application for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent and loss of rent. The tenant did not appear at the hearing. The landlord testified that the hearing documents were sent to the tenant via registered mail at the rental unit on August 12, 2014. The landlord orally provided a registered airtel tracking number as proof of service and testified that the registered mail was not returned. The landlord testified that the tenant vacated the rental unit on August 17, 2014.

I was satisfied that the landlord served the tenant with the hearing documents in manner that complies with the Act and I continued to hear from the landlord without the tenant present with respect to this Application.

Preliminary and procedural Matters

As the tenant has moved out of the rental unit an Order of Possession is no longer required and I do not provide one with this decision.

The landlord also reduced her monetary claim to limit it to unpaid rent for August 2014 since the landlord was able to re-rent the unit starting September 1, 2014.

The landlord also requested that the Application be amended to authorize the landlord to retain the security deposit in partial satisfaction of the rent owed to the landlord. Since this request actually reduces the amount of any Monetary Order provided to the landlord with this decision I found the request to be non-prejudicial to the tenant and I permitted the amendment.

Issue(s) to be Decided

1. Is the landlord entitled to recover from the tenant unpaid rent for the month of August 2014?
2. Is the landlord authorized to retain the security deposit?

Background and Evidence

The month to month tenancy commenced July 1, 2014 and the tenant paid a security deposit of \$450.00. The tenant was required to pay rent of \$900.00 on the 1st day of every month. The tenant failed to pay rent for August 2014 and on August 6, 2014 the landlord personally served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent. The tenant did not pay the outstanding rent and vacated the rental unit on August 17, 2014.

The landlord seeks to recover from the tenant unpaid rent in the amount of \$900.00 for the month of August 2014.

The landlord provided a copy of the tenancy agreement, the 10 Day Notice and a signed Proof of Service for the 10 Day Notice as documentary evidence for this proceeding.

Analysis

Under the Act a tenant is required to pay rent when due in accordance with the terms of tenancy, even if the landlord has violated the Act, regulations or tenancy agreement; unless, the tenant has a legal right to withhold rent. Should a tenant wish to end the tenancy, the tenant must do so in a manner that complies with the Act.

In this case, the tenant occupied the rental unit in August 2014 and did not pay rent for August 2014. Further, I provided any evidence to suggest the tenant had a legal right to withhold rent for August 2014. Therefore, I grant the landlord's request to recover unpaid rent of \$900.00 from the tenant for the month of August 2014.

I further award the landlord recovery of the \$50.00 filing fee paid for this Application.

I authorize the landlord to retain the tenant's security deposit in partial satisfaction of the amounts awarded to the landlord.

In light of the above, I provide the landlord with a monetary order to serve and enforce in the net amount, calculated as follows:

Unpaid Rent: August 2014	\$ 900.00
Filing fee	50.00
Less: security deposit	<u>(450.00)</u>
Monetary Order	\$ 500.00

To enforce the Monetary Order it must be served upon the tenant and it may be filed in Provincial Court (Small Claims) to enforce as an Order of the court.

Conclusion

The landlord has been authorized to retain the tenant's security deposit and has been provided a Monetary Order for the balance of \$500.00 to serve and enforce as necessary.

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

