



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR OPR MNSD MNDC FF

Introduction:

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) A monetary order pursuant to Sections 46 and 67 for unpaid rent;
- b) An Order of Possession pursuant to sections 46 and 55;
- c) An Order to retain the security deposit pursuant to Section 38; and
- d) An order to recover the filing fee pursuant to Section 72.

This hearing also dealt with an application by the tenant pursuant to the Residential Tenancy Act (the Act) for orders as follows:

- e) To cancel a Notice to End Tenancy for unpaid rent; and
- f) To recover the filing fee for this application.

SERVICE

The tenant did not attend. The landlord provided sworn evidence that the Notice to End Tenancy dated August 4, 2014 was served by posting it on the door and the Application for Dispute Resolution by registered mail. He said he received the tenant's Application but the tenant vacated on October 1, 2014 in response to the landlord's Application. I find the documents were legally served pursuant to sections 88 and 89 of the Act for the purposes of this hearing.

Issue(s) to be Decided:

The landlord no longer requires an Order of Possession as the tenant has vacated. Has the landlord proved on the balance of probabilities that there is unpaid rent and they are entitled to a Monetary Order for rental arrears? Is the landlord entitled to recover filing fees and to retain the security deposit to offset amounts owing?

Or is the tenant entitled to relief and to recover her filing fees?

Background and Evidence:

Only the landlord attended the hearing and was given opportunity to be heard, to present evidence and to make submissions. It is undisputed that the tenancy commenced in November 2013, that rent is \$1480 a month and a security deposit of \$740 was paid in November 2013. It is undisputed that the tenant has not paid rent for July, August or September but she made an Application on August 7th stating that her rent was to be paid by a bank for July and August 2014 and she would pay it in the remaining months. The landlord said he called the bank and they said she had not qualified so they received no rent payments. He requests a monetary order for outstanding rent for July, August and September 2014, plus the filing fee and to retain the security deposit to offset the amount owing.

The tenant did not attend although she had also made an Application.

In evidence is the Notice to End Tenancy for unpaid rent and a registration receipt for the Application sent by the landlord.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

Monetary Order:

The onus is on the applicant to prove on a balance of probabilities their claim. I find the landlord has satisfied the onus and has proved the tenant owes \$4440 in outstanding rent. I find the tenant in her Application did not dispute the amount owing.

I find the landlord entitled to a monetary order for \$4440 and to retain the security deposit to offset the amount owing.

Conclusion:

I dismiss the application of the tenant in its entirety without leave to reapply and I find she is not entitled to recover filing fees for his application.

I find the landlord entitled to a monetary order as calculate below and to recover filing fees for their Application.

Calculation of Monetary Award:

| | |
|--|---------|
| Outstanding rent July, August and September 2014 | 4440.00 |
| Filing fee | 50.00 |
| Less security deposit (no interest 2013-14) | -740.00 |
| Total Monetary Order to landlord | 3750.00 |

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

