



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR MNSD MNDC FF

Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the *Residential Tenancy Act* (the "Act") for an order of possession for unpaid rent or utilities, a monetary order for unpaid rent or utilities, for authorization to keep all or part of the security deposit, for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and to recover the filing fee.

The landlord attended the teleconference hearing. During the hearing the landlord was given the opportunity to provide his evidence orally. A summary of the testimony is provided below and includes only that which is relevant to the hearing.

Preliminary and Procedural Matters

At the outset of the hearing, the landlord testified that the tenants vacated the rental unit on October 22, 2014, since filing his application. As a result, the landlord requested to withdraw their request for an order of possession as the tenants had already given up possession of the rental unit by vacating the rental unit on October 22, 2014.

Issues to be Decided

- Is the landlord entitled to a monetary order under the *Act*, and if so, in what amount?
- What should happen to the tenants' security deposit under the *Act*?

Background and Evidence

A month to month tenancy agreement between the parties began on or about December 1, 2013 and ended on October 22, 2014 when the tenants vacated the rental

unit. Monthly rent in the amount \$2,125.00 was due on the first day of each month during the tenancy. The tenant paid a \$1,450.00 security and pet deposit at the start of the tenancy which the landlord continues to hold.

The landlord applied for dispute resolution on September 22, 2014, after they issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "10 Day Notice") on the tenant dated and personally served September 4, 2014 on the tenant at the rental unit. The 10 Day Notice has an effective vacancy date of September 15, 2014.

The landlord is seeking a monetary order in the amount of \$2,350.00 comprised of outstanding rent owing for September and October 2014.

The landlord testified that the tenant did not dispute the 10 Day Notice after being served September 4, 2014. The amount listed as owed by the tenant on the 10 Day Notice is \$1,600.00. The landlord testified that the tenant made some payments after receiving the 10 Day Notice, but also did not pay for October 2014; in total, the amount of \$2,350.00 remains owing. .

Analysis

Based on the documentary evidence, undisputed testimony of the landlord, and on the balance of probabilities, I find the following.

Pursuant to section 26 of the *Act*, a tenant must pay rent when it is due in accordance with the tenancy agreement.

I find the landlord has met the burden of proof and I grant the landlord **\$2,350.00** as described above. As the landlord's application had merit, I grant the landlord the recovery of the **\$50.00** filing fee.

I find that the landlord has established a total monetary claim of \$2,400.00 comprised of \$2,350.00 in unpaid rent and loss of rent, plus the \$50.00 filing fee. I find this claim meets the criteria under section 72(2)(b) of the *Act* to be offset against the tenant's security and pet deposit, which the landlord continues to hold, in the amount of \$1,450.00, which has accrued \$0.00 in interest to date. I authorize the landlord to retain the tenant's full security and pet deposit of \$1,450.00 in partial satisfaction of the landlord's monetary claim, and I grant the landlord a monetary order pursuant to section 67 of the *Act* for the balance owing by the tenant to the landlord in the amount of **\$950.00**. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

Conclusion

I find that the landlord has established a total monetary claim of \$2,400.00 as indicated above. I authorize the landlord to retain the tenant's full security deposit of \$1,450.00 in partial satisfaction of the claim, and I grant the landlord a monetary order under section 67 for the balance due of **\$950.00**. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: November 06, 2014

Residential Tenancy Branch

