



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, MNSD, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an Order of possession based on the tenant's written notice and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The agent for the landlord provided affirmed testimony that on October 29, 2014 copies of the Application for Dispute Resolution and Notice of Hearing were given to the tenant via registered mail sent to the rental unit address. A copy of the Canada Post receipt and tracking number were supplied as evidence.

These documents are deemed to have been served in accordance with section 89 and 90 of the Act; however the tenant did not appear at the hearing.

Issue(s) to be Decided

Is the landlord entitled to an Order of possession based on the tenant's written Notice?

Background and Evidence

The tenancy commenced on October 1, 2012. A security deposit in the sum of \$490.00 was paid. A copy of the tenancy agreement was supplied as evidence.

The landlord supplied a copy of a September 24, 2014 notice ending tenancy issued by the tenant. The tenant informed the landlord she would vacate the rental unit effective October 30, 2014.

The landlord obtained a new occupant for the unit, effective December 1, 2014.

The tenant did not vacate until November 30, 2014. The landlord applied requesting an Order of possession as it was apparent at the end of October the tenant was not vacating. The landlord had to be assured of vacant possession by December 1, 2014.

The landlord did obtain possession, just prior to December 1, 2014.

The landlord has requested the filing fee cost and confirmed that cost can be deducted from the security deposit.

Analysis

I find that the tenancy ended, in accordance with section 44(1)(a)(i); tenants' notice, effective October 30, 2014. I find that the tenant then over-held to November 30, 2014; the date she vacated.

The landlord does not require an Order of possession, but as the tenant failed to vacate on the date given, I find that the application has merit. The landlord had no confidence the tenant was going to provide vacant possession by December 1, 2014.

Therefore, pursuant to section 72 of the Act, I find that the landlord is entitled to recover the filing fee \$50.00 from the tenant for the cost of this Application for Dispute Resolution.

Section 72(2) of the Act provides an arbitrator with the ability to deduct any money owed by a tenant to a landlord, from the deposit due to the tenant. Therefore, I find that the landlord may retain the tenant's security deposit plus interest, in the amount of, in partial satisfaction of the monetary claim.

Therefore, pursuant to section 72 of the Act, I find that the landlord is entitled to retain \$50.00 from the security deposit in partial satisfaction of the claim. The security deposit balance held by the landlord will be \$440.00.

Conclusion

The landlord is entitled to deduct the \$50.00 filing fee from the security deposit.

The tenant has vacated.

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: December 04, 2014

Residential Tenancy Branch

