



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent, pursuant to section 55;
- a monetary order for unpaid rent, pursuant to section 67;
- authorization to recover the filing fee for this application from the tenant, pursuant to section 72.

The tenant did not attend this hearing, although the hearing lasted approximately 20 minutes in length. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that he personally served the tenant with a 10 Day Notice on November 3, 2014. He stated that BU witnessed this personal service. In accordance with sections 88 and 90 of the Act, I find that the tenant was served with the 10 Day Notice on November 3, 2014.

The landlord testified that he personally served the tenant with his application for dispute resolution hearing package ("Application") on November 13, 2014. He stated that BU witnessed this personal service. In accordance with sections 89 and 90 of the Act, I find that the tenant was served with the landlord's Application on November 13, 2014.

During the hearing, the landlord withdrew his application for an order of possession for unpaid rent, as the tenant had already vacated the rental unit. Accordingly, this application is withdrawn.

Issues to be Decided

Is the landlord entitled to a monetary award for unpaid rent?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord testified that this periodic tenancy began on May 1, 2005. Monthly rent in the current amount of \$2,000.00 is payable on the first day of each month. A security deposit of \$775.00 was paid by the tenant and the landlord still retains this deposit. A written tenancy agreement was provided with the landlord's Application.

The landlord testified that the tenant vacated the rental unit on December 2, 2014 and did not provide a forwarding address to the landlord. The landlord was told by the tenant's neighbor that he vacated the rental unit and the landlord entered the rental unit and confirmed this fact.

The landlord testified that the tenant has been paying rent in the amount of \$2,000.00 per month since May 2014. The last rent payment made by the tenant was on October 1, 2014, in the amount of \$2,000.00.

The landlord issued a 10 day Notice, dated November 3, 2014, for unpaid rent in the amount of \$2,000.00 due on November 1, 2014. The landlord is seeking \$2,000.00 in unpaid rent for November 2014, which he said that the tenant has not paid. No partial payments have been made by the tenant since the 10 Day Notice was issued. As per the landlord's testimony, when the landlord served the tenant with the 10 Day Notice in person on November 3, 2014, the tenant told the landlord that he would not be paying for November 2014 rent.

Analysis

The landlord provided undisputed evidence at this hearing, as the tenant did not attend the hearing. The tenant received the 10 Day Notice on November 3, 2014. The tenant did not pay rent for November 2014 or file an application for dispute resolution within 5 days of receiving the 10 Day Notice. Thus, he is conclusively presumed to accept that the tenancy ended on November 13, 2014, the effective date stated on the 10 Day Notice. The tenant did not vacate the rental unit on that date and stayed until December 2, 2014. The tenant did not make any rent payments to the landlord after the

10 Day Notice was served upon him. Accordingly, I find that the landlord is entitled to \$2,000.00 in rental arrears for November 2014, from the tenant.

As the landlord was successful in this Application, he is entitled to recover the \$50.00 the filing fee from the tenant.

Although the landlord's application does not seek to retain the security deposit, using the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the tenant's security deposit plus applicable interest, in partial satisfaction of the monetary award.

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$1,247.55 against the tenant as follows:

Item	Amount
Unpaid November 2014 Rent	\$2,000.00
Less Security Deposit Plus Interest (\$775.00+ \$27.45 = \$802.45)	-802.45
Recovery of Filing Fee for this Application	50.00
Total Monetary Order	\$1,247.55

The landlord is provided with this Order in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

The landlord's application to obtain an Order of Possession, is withdrawn.

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: December 19, 2014

Residential Tenancy Branch

