



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Brookemere Gardens Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This is an application filed by the landlord for an order of possession and a monetary order for unpaid rent, to keep all or part of the security deposit and recovery of the filing fee.

The landlord attended the hearing by conference call and gave undisputed testimony. The tenant did not attend or submit any documentary evidence. The landlord gave direct testimony that the tenant was personally served with the notice of hearing package on January 14, 2015.

During the hearing, landlord clarified that the monetary claim was for \$3,379.00 and not \$3,839.58. The landlord stated that she was also seeking to retain the \$460.00 security deposit to offset any successful claims.

The landlord also stated during the hearing that the tenant had vacated the rental unit on February 1, 2014 and no longer requires an order of possession. As such, this portion of the claim need not be addressed.

Issue(s) to be Decided

Is the landlord entitled to a monetary order?
Is the landlord entitled to retain the security deposit?

Background and Evidence

This tenancy began on December 1, 2008 on a month to month basis as shown by the submitted copy of the signed tenancy agreement dated November 28, 2008. The monthly rent is \$900.00 payable on the 1st of each month and a security deposit of \$460.00 was paid on November 15, 2008.

The landlord states that the tenant owes rent arrears as far back as March of 2013, totalling, \$3,379.00. The landlord states that 23 10 day notices to end tenancy issued for unpaid rent have been consecutively issued to the tenant for unpaid rent as the tenant has been consistently late paying rent.

The landlord states that a notice dated January 5, 2015 was issued that states the tenant failed to pay rent of \$3,379.00 that was due on January 1, 2015 and displays an effective end of tenancy date of January 18, 2015. The landlord states that this notice was posted to the rental unit door on January 5, 2015.

The landlord's written details states,

"The amount, in payments does not total the actual amount of "monthly rent"."

The landlord clarified that since this notice was served upon the tenant that no rent payments have been filed.

The landlord seeks a monetary order for \$3,379.00.

Analysis

I accept the undisputed testimony of the landlord and find that the landlord has served the tenant with a 10 day notice to end tenancy issued for unpaid rent dated January 5, 2015 by posting it to the rental unit door on January 5, 2015. The tenant did not pay any rent nor did the tenant file an application for dispute resolution. The landlord has stated that the tenant vacated the rental unit on February 1, 2015.

I find that the tenant accepted that the tenancy was at an end and has not filed an application for dispute to dispute the notice.

I find based upon the landlord's direct undisputed testimony that a claim has been established for unpaid rent based upon the 10 day notice to end tenancy issued for unpaid rent dated January 5, 2015 served upon the tenant.

The landlord has established a claim for \$3,379.00 in rent arrears. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord may retain the \$460.89 for the security deposit and the accrued interest in partial satisfaction of the claim. I grant the landlord a monetary order under section 67 for the balance due of

\$2,968.11. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted a monetary order for \$2,968.11.
The landlord may retain the security deposit and the accrued interest.

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: February 03, 2015

Residential Tenancy Branch

