



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for an order of possession and a monetary order for unpaid rent. The landlord had initially made this application by direct request. An application made by direct request is processed as a non-participatory hearing. The adjudicator found that based on the evidence before him, he was unable to determine the date rent was due. Accordingly, the matter was scheduled for a participatory hearing to be conducted by conference call on this date – September 09, 2015.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The tenant acknowledged receipt of evidence submitted by the landlord. Both parties gave affirmed testimony.

Since the tenant moved out on or about July 01, 2015, an order of possession was no longer required. Therefore, this hearing only dealt with the landlord's monetary claim for unpaid rent.

Issues to be decided

Is the landlord entitled to a monetary order to recover unpaid rent?

Background and Evidence

The tenancy started on March 15, 2014. The tenant agreed that the monthly rent was \$1,700.00 due in advance on the first of each month.

The landlord stated the tenant failed to pay rent on June 01, 2015 and on June 17, 2015; the landlord served the tenant with a ten day notice to end tenancy. The tenant did not dispute the notice and agreed that she had not paid rent for June.

The landlord testified that on July 08, 2015, she drove by the rental unit and noticed that the tenant's cars were no longer parked outside. The landlord found that the tenant had moved out. The tenant stated that she moved out on July 01, 2015. The tenant stated that she had verbally informed the landlord on June 17, 2015, about her intentions to move out on July 01, 2015.

The tenant also testified that at the time she provided the landlord with verbal notice to end the tenancy, she also gave the landlord a written notice which contained a forwarding address. The landlord denied having received either a written notice to end tenancy or the tenant's forwarding address. The tenant did not file into evidence, a copy of her note to the landlord.

During the hearing, the tenant provided her forwarding address and I informed the landlord that effective this date September 09, 2015, the landlord is considered having received the tenant's forwarding address and must deal with the return of the security deposit pursuant to s. 38 of the *Residential Tenancy Act*

The landlord stated that the tenant left the unit in a messy condition and she was unable to find a tenant for the remainder of the month of July 2015. The landlord stated that she suffered a loss of income for July and is claiming to be compensated for this loss

Analysis

The tenant agreed that she had not paid the landlord rent for June 2015 and therefore I find that the landlord is entitled to unpaid rent in the amount of \$1,700.00.

Section 45 of the *Residential Tenancy Act*, states that a tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice and is the day before the day in the month that rent is payable under the tenancy agreement.

Based on the testimony of both parties, I accept the landlord's evidence in respect of the claim. The matter was scheduled to be heard on this date – September 09, 2015 and the landlord if successful would have been provided with an order of possession. However, the tenant was required to pay rent while she occupied the rental unit or provide adequate notice to end the tenancy.

In this case the tenant stated that she provided notice on June 17, 2015 and moved out on July 01, 2015. Even if I accept the tenant's testimony of having provided written notice on June 17, 2015, since rent is due on the first of each month, by giving the landlord notice on June 17, 2015, the earliest the tenant could legally end the tenancy was July 31, 2015.

The tenant stated that she moved out on July 01, 2015. Accordingly I find that the tenant moved out without giving the landlord adequate notice to end the tenancy, thereby causing the landlord to suffer a loss of income for the month of July 2015. Therefore, I find that the landlord is entitled to \$1,700.00, which is the loss that she suffered.

During the hearing the landlord agreed to a \$50.00 reduction from her entitlement to satisfy an award made to the tenant at a hearing that was conducted on June 16, 2015.

Overall the landlord has established a claim of \$3,350.00 for unpaid rent and loss of income minus \$50.00 for a prior award to the tenant. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for this amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord a monetary order for **\$3,350.00**.

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: September 09, 2015

Residential Tenancy Branch

