



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KST VENTURES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, FF, SS

Introduction

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

- a monetary order for unpaid rent;
- an order to be allowed to serve documents or evidence in a different way than required by the Act; and
- authorization to recover its filing fee for this application from the tenant.

The tenant did not attend this hearing, although I waited until 0948 in order to enable the tenant to connect with this teleconference hearing scheduled for 0930. The landlord's agent attended the hearing and was given a full opportunity to be heard, to present sworn testimony, and to make submissions. The agent is a shareholder of the landlord and confirmed that he has full authority to act on the landlord's behalf.

The agent testified that he personally served the tenant with the dispute resolution package on 24 July 2015 in the lobby of the residential property. The agent testified that his daughter witnessed this service. I am satisfied that the tenant was served with the dispute resolution package pursuant to section 89 of the Act.

Preliminary Issue – Scope of Application

At the beginning of the hearing, the agent indicated that he had struck a settlement with his tenant whereby the tenant would agree to pay to the landlord \$1,000.00 in addition to allowing the landlord to retain the tenant's security deposit. The agent asked to amend the landlord's claim to reduce the claim to \$1,650.00.

Paragraph 64(3)(c) allows me to amend an application. As there is no prejudice to the tenant in the landlord reducing its claim, the amendment is granted.

The landlord's application seeks an order for substituted service. In the course of the hearing it became apparent that no such order is required. As such, I have not considered the landlord's application for substituted service as none is needed.

Issue(s) 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

While I have turned my mind to all the documentary evidence, and the testimony of the agent, not all details of the submissions and / or arguments are reproduced here. The principal aspects of the landlord's claim and my findings around it are set out below.

This tenancy began 1 April 2014. The parties entered into a written tenancy agreement on 29 March 2014. The tenancy ended on or about 4 August 2015. Monthly rent of \$1,300.00 was due on the first. The landlord continues to hold the tenant's security deposit in the amount of \$650.00, which was collected at the beginning of the tenancy.

The agent testified that the tenant was unable to pay rent for September 2014. The agent and tenant struck a bargain to allow the tenant to pay off his September 2014 rent arrears at a rate of \$200.00 per month. The agent testified that the tenant paid \$800.00 towards the rent arrears for September, which left \$500.00 in arrears for September.

The agent testified that the tenant did not pay rent for July 2015. The agent testified that the rent arrears total \$1,800.00.

Analysis

Subsection 26(1) of the Act sets out:

A tenant must pay rent when it is due under the tenancy agreement....unless the tenant has a right under this Act to deduct all or a portion of the rent.

I have not been provided with any evidence that indicates that the tenant was entitled to deduct any amount from rent.

The landlord has provided evidence that the tenant has rent arrears of \$1,800.00: \$500.00 from September 2014 and \$1,300.00 from July 2015. On the basis of the agent's sworn and uncontested testimony, I find that the landlord has proven an entitlement to rent arrears of \$1,800.00. The landlord has elected to limit its claim to \$1,650.00. The landlord is entitled to the full amount of its claim, that is, \$1,650.00.

The agent testified that the landlord continued to hold the tenant's \$650.00 security deposit, plus interest, paid on 1 April 2014. Over that period, no interest is payable. Although the landlord's application does not seek to retain the security deposit, using the offsetting provisions of section 72 of the Act, I allow the landlord to retain the security deposit in partial satisfaction of the monetary award.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$50.00 filing fee paid for this application.

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$1,050.00 under the following terms:

Item	Amount
Rent Arrears Claimed	\$1,650.00
Offset Security Deposit Amount	-650.00
Recovery of Filing Fee for this Application	50.00
Total Monetary Order	\$1,050.00

The landlord is provided with this order in the above terms and the tenant(s) must be served with this order as soon as possible. Should the tenant(s) 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.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under subsection 9.1(1) of the Act.

Dated: October 02, 2015

Residential Tenancy Branch