



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 to hear a landlord's application for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent; and, authorization to retain the security deposit. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

During the hearing it was confirmed that the tenant has vacated the rental unit and an Order of Possession is not required. Accordingly, I do not provide one with this decision and the remainder of this decision pertains to the landlord's monetary claims only.

Issue(s) to be Decided

1. Is the landlord entitled to recover unpaid rent from the tenant?
2. Is the landlord authorized to retain the security deposit?

Background and Evidence

The tenancy commenced December 15, 2014 on a month to month basis. The tenant paid a security deposit of \$550.00 and a pet damage deposit of \$550.00. The tenant was required to pay rent of \$1,100.00 on the 1st day of every month.

The tenant paid only \$550.00 in rent for the month of July 2015 and on July 3, 2015 the landlord personally served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent with a stated effective date of July 13, 2015. The tenant did not pay the outstanding rent and vacated the rental unit between the dates of July 12 and 16, 2015.

The parties participated in a move-out inspection together on July 17, 2015. A move-out inspection report was prepared and both parties signed it. There was also a discussion concerning the landlord retaining the security deposit in satisfaction of the unpaid rent; however, the tenant did not authorize the landlord to retain it in writing. The tenant provided his forwarding address on the move-out inspection report. On July

24, 2015 the landlord filed this Application to seek authorization to retain the security deposit in satisfaction of the unpaid rent.

It was undisputed that the pet damage deposit was refunded to the tenant.

The tenant submitted that he did not have sufficient funds to pay rent for July 2015. The tenant was of the position that he should not be obligated to pay rent for the entire month of July 2015 since he vacated the rental unit part way through the month of July 2015. The tenant enquired as to whether the security deposit should be doubled.

Documentary evidence provided for my review included a copy of the tenancy agreement; banks statements of the landlord showing partial payment of rent for July 2015; the 10 Day Notice; Proof of Service of the 10 Day Notice; and, the move-out inspection report.

Analysis

Under the Act, a tenant is required to pay rent when due in accordance with their tenancy agreement. In this case, it was undisputed that \$1,100.00 was payable on the 1st day of every month including July 1, 2015 since the tenancy was still in effect at that time. Accordingly, I find the tenant failed to fulfill his obligations under the tenancy agreement and the Act in failing to pay \$1,100.00 on July 1, 2015. A tenant's inability to pay rent is not an exemption from his obligation to pay in full and on time.

Upon receiving the 10 Day Notice, the tenant has five days to pay the outstanding rent to nullify the Notice and continue the tenancy. In failing to do that, or dispute the Notice, the tenant was required to vacate the rental unit by July 13, 2015 under the Act. The tenant did vacate the rental unit in mid-July 2015, although the exact date was uncertain. However, despite the tenant vacating the unit part way through the month the landlord still suffered a loss of rent that he was entitled to receive for the month of July 2015 and I am satisfied that the loss is attributable to the tenant's breach of his obligations under the tenancy agreement and the Act. Therefore, I find the landlord is entitled to recover the balance of rent owed for the month of July 2015 from the tenant and I award the landlord \$550.00 as requested.

The landlord filed his Application within 15 days of the tenancy ending and obtaining the tenant's forwarding address in writing and I am satisfied the landlord complied with the Act with respect to handling of the security deposit. Accordingly, I am satisfied that doubling the security deposit is not applicable in this case.

By way of this decision I authorize the landlord to retain the tenant's security deposit in satisfaction of the unpaid rent.

I also award the landlord recovery of the filing fee paid for this Application as it was necessitated by the tenant's violation of the Act and unwillingness to authorize the landlord to retain the deposit when the opportunity was available to him. Therefore, I provide the landlord with a Monetary Order in the amount of \$50.00 to serve and enforce upon the tenant.

Conclusion

The landlord has been authorized to retain the security deposit in satisfaction of the unpaid rent for July 2015. The landlord has also been awarded recovery of the filing fee and has been provided a Monetary Order in the amount of \$50.00 to serve and enforce upon the tenant.

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: October 09, 2015

Residential Tenancy Branch

