



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, FF

Introduction

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

- a monetary order for unpaid rent pursuant to section 67;
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 1343 in order to enable the tenant to connect with this teleconference hearing scheduled for 1330. The landlord's agent attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The agent is the landlord's son.

Preliminary Issue – Service of Dispute Resolution Package

The agent provided sworn, uncontested testimony that on 6 July 2015 he personally served the tenant with the dispute resolution package. The agent testified that the package included all evidence before me. The agent testified that he went to the rental unit and knocked on the door. The agent testified that the tenant opened the door. The agent testified that he handed the package to the tenant and told her what it was. The agent testified that the tenant dropped the package on the floor. On the basis of this sworn and uncontested evidence, I find that the tenant was duly served with the dispute resolution package pursuant to subsection 89(1) of the Act.

Issue(s) to be Decided

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 in 2010. Monthly rent at the end of the tenancy was \$700.00 per month. Rent was due on the first of the month. To the best of the agent's knowledge, the tenant is still occupying the rental unit.

The agent testified that the tenant did not pay rent due 1 June 2015 or 1 July 2015. The agent testified that he did not know of any reason that would entitle the tenant to deduct any amount from rent. The agent testified that the landlord has not received any payment towards June or July's rent.

The agent testified that the landlord spoke to the tenant on or about 10 June 2015. The landlord inquired about the tenant's rent for June. The agent testified that the tenant said that the landlord would have to go to "court" to collect it from her. The agent testified that up to this point there had not been any issues in the tenancy.

In May 2015 the landlord entered into a purchase and sale agreement for the rental unit with a third party. Possession of the rental unit transferred to the successor landlord on or about 4 July 2015. The statement of adjustments credited the successor landlord for its portion of July's rent. The tenant's security deposit was also transferred to the successor landlord.

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.

On the basis of the sworn and uncontested testimony of the agent, I find that the tenant failed to pay rent to the landlord in the amount of \$700.00 when it was due on 1 June 2015. On the basis of the sworn and uncontested testimony of the agent, I find that the tenant failed to pay rent to the landlord in the amount of \$700.00 when it was due on 1 July 2015. There is no evidence before me that indicates that the tenant was entitled to deduct any amount from rent.

Section 67 of the Act provides that, where an arbitrator has found that damages or loss results from a party not complying with the Act, an arbitrator may determine the amount of that damages or loss and order the wrongdoer to pay compensation to the claimant.

The claimant bears the burden of proof. The claimant must show the existence of the damage or loss, and that it stemmed directly from a violation of the agreement or a contravention of the Act by the wrongdoer. If this is established, the claimant must provide evidence of the monetary amount of the damage or loss.

By failing to pay her rent when due, the tenant has breached the tenancy agreement and section 26 of the Act. In breaching the agreement and Act the tenant has caused the landlord a loss in the amount of \$1,400.00. I find that the landlord has proven his entitlement to \$1,400.00 for June and July's rent.

As the landlord has been successful in this application, he is entitled to recover the filing fee from the tenant.

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$1,450.00 under the following terms:

Item	Amount
Unpaid June Rent	\$700.00
Unpaid July Rent	700.00
Recovery of Filing Fee for this Application	50.00
Total Monetary Order	\$1,450.00

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: November 25, 2015

Residential Tenancy Branch

