



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, MNSD, FF
CNR, FF

Introduction

This hearing was convened by way of conference call concerning a applications made by the landlord and by one of the named tenants. The landlord has applied for an Order of Possession and a monetary order for unpaid rent or utilities; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; for an order permitting the landlord to keep all or part of the pet damage deposit or security deposit and to recover the filing fee from the tenants for the cost of the application. The tenant has applied for an order cancelling a notice to end the tenancy for unpaid rent or utilities and to recover the filing fee from the landlord.

An agent for the landlord attended the hearing and gave affirmed testimony. However, despite making an application for dispute resolution and despite being served with the Landlord Application for Dispute Resolution and notice of this hearing, no one for the tenants attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and the only participant who joined the call was the landlord's agent. The landlord's agent testified that both tenants were individually served on December 24, 2015 by registered mail and has provided copies of Registered Domestic Customer Receipts issued by Canada Post, and I am satisfied that the tenants have been served in accordance with the *Residential Tenancy Act*.

Since no one for the tenants attended the hearing, I hereby dismiss the tenant's application without leave to reapply.

During the course of the hearing, the landlord's agent withdrew the application as against the second named tenant. The landlord's agent also withdrew the application for an Order of Possession stating that the tenants have both vacated the rental unit and the landlord has possession.

Issues to be Decided

The issues remaining to be decided are:

- Has the landlord established a monetary claim as against the tenant for unpaid rent?
- Should the landlord be permitted to keep all or part of the security deposit in full or partial satisfaction of the claim?

Background and Evidence

The landlord's agent testified that this fixed-term tenancy began on September 1, 2012 and expired after one year, thereafter reverting to a month-to-month tenancy. The tenancy agreement, a copy of which has been provided, specifies 2 tenants, and one moved out about 6 months ago. The remaining tenant moved out of the rental unit during the weekend of January 15, 2016.

Rent in the amount of \$900.00 per month was payable in advance on the 1st day of each month, which was not increased during the tenancy. In August, 2012 the landlord collected a security deposit from the tenants in the amount of \$450.00 which is still held in trust by the landlord, and no pet damage deposit was collected.

The tenant failed to pay rent when it was due in June, 2015, and continued to accumulate rental arrears. The landlord served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent, a copy of which has been provided by the landlord and by the tenant. The tenant's copy is dated December 2, 2015 and contains an effective date of vacancy of December 4, 2015 for \$6,300.00 of unpaid rent that was due on November 1, 2015. The landlord's copy contains a correction, showing that it is dated December 2, 2015 and contains an effective date of vacancy of December 4, 2015 for \$6,300.00 of unpaid rent that was due on November 1, 2015. The landlord's agent testified that the tenant owes rent for June, 2015 through January, 2016 totaling \$7,200.00.

The landlord seeks to keep the \$450.00 security deposit in partial satisfaction, and a monetary order for the balance and recovery of the filing fee.

Analysis

I have reviewed the evidentiary material provided by the parties, and I find that the copy of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities given to the tenant contained an error, in that the sum of \$6,300.00 was the amount due on December 1, 2015, not November 1, 2015, and I accept that the landlord's copy of the notice is the corrected version. I am not certain whether or not the corrected version of the notice

was given to the tenant, however, since the tenant has moved out of the rental unit, proof of such service is not required.

In the circumstances, I am satisfied that the landlord has established a claim for unpaid rent in the amount of \$7,200.00, being rent owed from June, 2015 to January, 2016 inclusive.

Since the landlord has been partially successful with the application, the landlord is also entitled to recovery of the \$50.00 filing fee.

I hereby order the landlord to keep the \$450.00 security deposit in partial satisfaction of the claim and I grant a monetary order in favour of the landlord for the difference in the amount of \$6,800.00.

Conclusion

For the reasons set out above, the tenant's application is hereby dismissed without leave to reapply.

The landlord's application is dismissed as against the second named tenant (WC) as withdrawn.

The landlord's application for an Order of Possession is hereby dismissed as withdrawn.

I hereby order the landlord to keep the \$450.00 security deposit in partial satisfaction of the landlord's claim, and I grant a monetary order in favour of the landlord as against the first named tenant (JP) in the amount of \$6,800.00.

This order is final and binding and may be enforced.

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: January 29, 2016

Residential Tenancy Branch

