



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BAYSIDE PROPERTIES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

For the tenant – CNC

For the landlord – OPC, MNR, MNSD, FF

Introduction

This hearing was convened by way of conference call in response to both parties' applications for Dispute Resolution. The tenant applied to cancel a One Month Notice to End Tenancy for Cause. The landlord applied for an Order of Possession for cause; for a Monetary Order for unpaid rent; for an Order permitting the landlords to keep all or part of the tenant's security deposit; and to recover the filing fee from the tenant for the cost of this application.

At the outset of the hearing the landlord advised that the tenant is no longer residing in the rental unit, and therefore, the landlord withdraws their application for an Order of Possession.

The hearing went ahead as scheduled; however, the tenant failed to dial into the conference call during call. Therefore, no hearing took place regarding the tenant's application as the tenant has failed to present the merits of their application. Consequently, the tenant's application is dismissed without leave to reapply.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*, served by registered mail on March 11, 2016. Canada Post tracking numbers were provided by the landlord in evidence. The tenant was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord's agents appeared, gave sworn testimony, were provided the opportunity to present evidence orally, in writing, and in documentary form. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Is the landlord entitled to a Monetary Order to recover unpaid rent?
- Is the landlord entitled to keep the security deposit?

Background and Evidence

The landlord's agent KO testified that this tenancy started on March 20, 2015. At that time the building was managed by the previous landlord. This landlord took over the building late July, 2015. Rent for this unit was \$750.00 per month, due on the first day of each month. The tenant paid a security deposit of \$375.00 on March 15, 2015. A copy of the tenancy agreement has been provided in documentary evidence.

KO testified that the tenant was served a One Month Notice to End Tenancy for Cause on February 03, 2016 by posting it to the tenant's door. KO testified that the tenant has been repeatedly late paying rent since August, 2015. Two previous 10 Day notices have also been served upon the tenant and a breach letter was sent to the tenant in January, 2016 informing the tenant that he is in breach of his tenancy agreement and that rent is due on the first of each month.

KO testified that the tenant paid his rent late again in February, 2016 and a One Month Notice was then served upon the tenant. The tenant did file an application to dispute the Notice but the tenant vacated the rental unit on April 04, 2016.

KO testified that the tenant failed to pay rent for March, 2016 of \$750.00. The landlord seeks a Monetary Order to recover the unpaid rent for March. The landlord has provided a copy of the tenant's rent ledger in documentary evidence.

The landlord seeks an Order to retain the tenant's security deposit of \$375.00 in partial satisfaction of their monetary claim and an Order to recover the filing fee of \$100.00 from the tenant.

Analysis

The tenant did not appear at the hearing to dispute the landlord's claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the tenant, I have considered the landlord's documentary evidence and sworn testimony before me. Section 26 of the Act states:

26. A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy

agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

I am satisfied with the evidence before me that the tenant has failed to pay rent for March, 2016 of **\$750.00**. Consequently, I find that the landlord is entitled to recover this amount from the tenant and will receive a Monetary Order pursuant to s. 67 of the *Act*.

I order the landlord, pursuant to s. 38(4)(b) of the *Act*, to keep the tenant's security deposit of **\$375.00** in partial satisfaction of their monetary claim.

As the landlord has been successful in this matter, the landlord is also entitled to recover the **\$100.00** filing fee for this proceeding pursuant to s. 72(1) of the *Act*. The landlord will receive a Monetary Order pursuant to s. 67 and 72(1) of the *Act* for the following amount:

Unpaid rent for March	\$750.00
Filing fee	\$100.00
Less security deposit	(-\$375.00)
Total amount due to the landlord	\$475.00

Conclusion

For the reasons set out above, I grant the landlord a Monetary Order pursuant to Section 67 and 72(1) of the *Act* in the amount of **\$475.00**. This Order must be served on the Respondent and may then be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court if the Respondent fails to comply with the Order.

The tenant's application is dismissed without leave to reapply.

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: April 05, 2016

Residential Tenancy Branch