



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OPR MNR MNSD

Introduction

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

- an order of possession for unpaid rent and utilities pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38;
- authorization to recover her filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 11:15 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

The landlord testified that she served the tenant with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing by registered mail on March 3, 2016. The landlord provided a registered mail tracking number in support of service.

Issues

Is the landlord entitled to an order of possession for unpaid rent?

Is the landlord entitled to a monetary award for unpaid rent?

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The tenancy began on February 1, 2012 with a monthly rent of \$1000.00 payable on the 1st day of each month. The tenant paid a security deposit of \$500.00 at the start of the tenancy. The landlord testified that she continued to hold this \$500.00 security deposit.

The landlords claim is for \$2,000.00 in outstanding rent for the months of February and March 2016 plus the \$100.00 filing fee for a total of \$2100.00.

The landlord testified that the tenant has not paid any rent since the filing of the application. The tenant moved out on March 7, 2016, accordingly, the landlord withdrew her application for an order of possession.

Analysis

Based on the above evidence, I am satisfied that the tenant was deemed served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing on March 8, 2016, the fifth day after it was mailed, pursuant to sections 89 & 90 of the Act. The tenant did not attend the hearing or provide any evidence in response to the landlord's application.

I accept the landlord's uncontested evidence and find that the tenant was obligated to pay monthly rent in the amount of \$1000.00 but failed to pay rent for the months of February and March 2016. I accept the landlord's claim for outstanding rent of \$2000.00.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application for a total monetary award of \$2100.00.

The landlord testified that she continues to hold a security deposit of \$500.00. I allow the landlord to retain the security deposit in partial satisfaction of the monetary award pursuant to section 38 of the Act.

Therefore, I find that the landlord is entitled to a Monetary Order in the amount of \$1600.00 (\$2100.00 - \$500.00).

Conclusion

Pursuant to section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of \$1,600.00. Should the tenant 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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: April 18, 2016

Residential Tenancy Branch