



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, OPR, FF

Introduction

On March 24, 2016, the Landlord submitted an Application for Dispute Resolution for an order of possession; a monetary order for unpaid rent; to keep the security deposit and pet deposit; and to recover the cost of the filing fee. The matter was set for a conference call hearing at 9:00 a.m. on this date. The Landlord and Tenant attended the hearing. The Landlord and tenant were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

Preliminary Matters

The Landlord testified that the Tenant has moved out of the rental unit and therefore, he is not pursuing an order of possession.

A previous dispute resolution hearing involving both parties was heard on April 14, 2016, and a decision was issued on April 14, 2016, stating that the Landlord was entitled to an order of possession but no longer required it.

The Landlord asked to add a monetary claim regarding damage done by the tenant's pet. He stated that he has evidence that the Tenant's dog damaged the hardwood floors. The Tenant disputes that his dog caused any damage. As there is no documentary evidence of the claim or damage before the Tenant or me, I declined the Landlord's request to include the monetary claim in this application and I informed him that he would need to reapply for dispute resolution on that issue.

Issues to be Decided

Is the Landlord entitled to a monetary order for unpaid rent?
Is the Landlord entitled to keep the Security Deposit and Pet Deposit towards unpaid rent?
Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

The Landlord and Tenant testified that the tenancy began as a fixed term tenancy starting on September 15, 2015, and continuing until March 31, 2016. The tenancy was set to continue thereafter as a month to month tenancy. Rent in the amount of \$1,700.00 was payable on the first of each month. The Tenant paid a \$850.00 security deposit and a \$850.00 pet deposit.

The Landlord testified that the Tenant did not pay him rent for the months of March 2016, and April 2016. The Landlord testified that the Tenant did not give him any written Notice to End the Tenancy and moved out on April 2, 2016. The Landlord testified that he did not re-rent the unit for the month of April 2016 and indicates that there is damage to the rental unit.

The Landlord testified that he was previously granted an order that the Tenant pay him rent for March 2016, and he now seeks a monetary order for unpaid rent for April 2016, in the amount of \$1700.00. However, I note that there was in fact no monetary award granted to the Landlord in the previous hearing, as it dealt solely with the Tenant's application.

The Tenant testified that he did not pay rent for March 2016 or April 2016. The Tenant also testified that he did not provide the Landlord with a written Notice to end the tenancy. The Tenant testified that he received a letter from the Landlord stating that the Landlord was planning on moving into the rental unit, and the Tenant considered this letter to be a notice to end tenancy. I note that the April 14, 2016, dispute resolution decision addressed this issue and found insufficient evidence that the Landlord issued a notice to end tenancy for Landlord's use of the property.

Analysis

Based on the evidence before me, the testimony of the Landlord and Tenant, and on a balance of probabilities, I find that the Tenant did not pay any rent to the Landlord for the months of March 2016, and April 2016.

I find that the Tenant moved out on April 2, 2016, and did not give the Landlord Notice to end the tenancy on or before the end of the fixed term tenancy and therefore is responsible to pay the rent for April 2016. I find that the Tenant owes the Landlord \$1700.00 for unpaid rent in March 2016, and \$1700.00 for unpaid rent in April 2016.

I order that the Landlord can keep the security deposit and pet deposit in the amount of \$1700.00 in partial satisfaction of his claim for unpaid rent.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to pay the Landlord the \$100.00 fee that the Landlord paid to make application for dispute resolution.

I find that the Landlord has established a total monetary claim of \$3,500.00 comprised of \$3,400.00 in unpaid rent and the \$100.00 fee paid by the landlord for this hearing. After offsetting the security and pet deposit towards the claim of \$3,500.00, I find that the Landlord is entitled to a monetary order in the amount of \$1,800.00. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

Conclusion

The Tenant failed to pay the rent and did not give the Landlord proper Notice to end the Tenancy.

The Landlord is granted a monetary order for two months of rent and may keep the pet and security deposit of \$1,700.00 in partial satisfaction of his claim. The Landlord is granted a monetary order for unpaid rent in the amount of \$1,800.00.

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 29, 2016

Residential Tenancy Branch