



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPN, MNDC, MNSD

Introduction

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

- an order of possession based on the tenant's written notice to end the tenancy pursuant to section 55;
- a monetary order for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* (the "Regulation") or tenancy agreement pursuant to section 67; and
- 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.

The tenant did not participate in the conference call hearing, which lasted approximately 10 minutes. The landlord's two agents (collectively the "landlord") attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlords confirmed they were agents of the landlord's company named in this application, and had authority to speak on its behalf.

The landlord testified that the tenant was personally served with the landlord's application for dispute resolution hearing package on July 13, 2016, at the rental unit where the tenant is residing. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's application on July 13, 2016, the day it was served.

Preliminary Issue – Amendment of Landlord's Application

The landlord confirmed that she wished to amend the landlord's application to increase her monetary claim to include August 2016 unpaid rent of \$595.00. I find that the tenant should reasonably have known that the landlord would suffer this loss of income if she did not pay the rent or vacate the rental unit to allow it to be re-rented. Based on the

undisputed evidence and in accordance with section 64(3)(c) of the *Act*, I amend the landlord's application to include a monetary claim for August 2016 unpaid rent of \$595.00.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Is the landlord entitled to a monetary order for money owed or compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement?

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

Background and Evidence

The landlord testified that this tenancy began on January 1, 2015 on a month-to-month basis. Subsidized rent in the amount of \$595.00 is payable on the first of each month. The tenant remitted \$500.00 for the security deposit at the start of the tenancy. The tenant continues to reside in the rental unit.

On May 30, 2016 the tenant submitted written notice to vacate the rental unit effective June 30, 2016. The tenant sent an email to the landlord on June 29, 2016, requesting to reinstate her tenancy. The landlord advised the tenant that the tenancy would not be reinstated.

The landlord seeks a monetary order of \$1,190.00 for unpaid rent from July 2016 to August 2016. The landlord claimed that the tenant did not pay any rent for the above two months.

Analysis

As per section 55 of the *Act* a landlord may request an order of possession of a rental unit if a notice to end tenancy was given by the tenant. Based on the notice before me and pursuant to section 55 of the *Act*, I grant an order of possession to the landlord.

Section 26 of the *Act* requires the tenant to pay rent on the date indicated in the tenancy agreement, which is the first day of each month. Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, *Regulation* or tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply.

I find that the landlord proved that the current rent for this unit is \$595.00. I find the landlord provided undisputed evidence that the tenant failed to pay rent from July 2016 to August 2016. Therefore, I find that the landlord is entitled to \$1,190.00 in rent.

In accordance with the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the security deposit in the total amount of \$500.00 in partial satisfaction of the monetary award and I grant an order for the balance due \$690.00.

Conclusion

I grant an order of possession to the landlord effective **two (2) days after service on the tenant**.

I issue a monetary order in the landlord's favour in the amount of \$690.00.

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: August 29, 2016

Residential Tenancy Branch