



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding THE LOOKOUT EMERGENCY AID SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNDC, MNSD, FF

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 pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement 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 the filing fee for this application from the tenant pursuant to section 72.

The landlord's agent (the landlord) attended the hearing and provided undisputed affirmed testimony. The tenant did not attend or submit any documentary evidence. The landlord stated that the tenant was served with the notice of hearing package by posting it to the rental unit door on July 22, 2016. I accept the undisputed affirmed evidence of the landlord and find that the tenant was served with the notice of hearing package on July 22, 2016 by posting it to the rental unit door. The tenant is deemed to have been properly served as per section 90 of the Act.

The landlord stated that the late documentary evidence was not served to the tenant. The landlord stated that there was a change in management and that the material is regarding interactions with the tenant. I find that as the landlord was failed to serve the tenant with the submitted documentary evidence that this would be highly prejudicial to the tenant and as such exclude it from consideration in this decision.

Issue(s) to be Decided

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

Is the landlord entitled to a monetary order for unpaid rent, for money owed or compensation for damage or loss and recovery of the filing fee?

Is the landlord entitled to retain all or part of the security deposit?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The landlord provided affirmed testimony that the tenant was served with the 10 day Notice dated June 22, 2016 by posting it to the rental unit door on June 22, 2016. The 10 Day Notice states that the tenant failed to pay rent of \$375.00 that was due on June 1, 2016 and provides an effective end of tenancy date of July 2, 2016.

The landlord seeks an order of possession and a monetary order for unpaid rent of \$1,500.00.

The landlord provided undisputed affirmed testimony that the tenant failed to pay rent for June, July, August and September of \$375.00 per month, totalling, \$1,500.00.

The landlord clarified when questioned about the written details in which the tenant currently owed \$745.00. The landlord stated that as per the Resident Ledger on April 3, 2016 the tenant had a \$5.00 credit which was not reflected in the 10 Day Notice. The Resident Ledger shows that the tenant was in rental arrears of \$370.00 as of June 1, 2016.

Analysis

Pursuant to section 46 of the Act, a landlord may end a tenancy if rent is unpaid on any day after the day it is due, by giving notice to end tenancy effective on a date that is not earlier than ten days after the date the tenant receives the notice.

I accept the undisputed affirmed testimony of the landlord and find that the 10 Day Notice to be ineffective as it states that the tenant was in arrears of \$375.00 when in fact the tenant was in arrears for \$370.00. The 10 Day Notice dated June 22, 2016 is set aside. As the 10 Day Notice has been set aside, the landlord's application is dismissed.

Conclusion

The landlord's application is dismissed.

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: September 07, 2016

Residential Tenancy Branch