



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AWM ALLIANCE REAL ESTATE GROUP LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OPR, OPB, MNSD, FF

Introduction

This hearing was convened in response to an application by the landlord pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows:

1. An Order of Possession - Section 55
2. An Order to retain the security deposit - Section 38
3. An Order to recover the filing fee for this application - Section 72

I accept the landlord's evidence that despite the tenant having been served with the application for dispute resolution and notice of hearing by *registered mail* and by *posting it on the tenant's door*, in accordance with Section 89 of the Residential Tenancy Act (the Act) the tenant did not participate in the conference call hearing. The landlord claims they further posted all of their evidence on the tenant's door as well. As a result, I find the tenant has been served with notice of this hearing and with the landlord's claim. The landlord was given full opportunity to be heard, to present evidence and to make submissions. The landlord testified the tenant vacated September 19, 2016, therefore they do not require an order of possession.

Issue(s) to be Decided

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on March 01, 2016 and since ended on September 19, 2016 with the tenant vacating. Rent in the amount of \$1700.00 was payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$850.00 which they retain in trust. The landlord claims the tenant failed to pay rent in the month of August 2017 and on August 17, 2016 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The tenant further failed to pay rent in the month of September 2016. The landlord testified they sought all unpaid rent and to retain the security deposit toward it. The landlord provided into evidence a Monetary Order Worksheet indicating their monetary claim is for unpaid rent/utilities and recovery of the \$100.00 filing fee, however did not complete the Worksheet as to the total of their monetary order claim.

Analysis

Based on the landlord's application particulars and undisputed oral and document evidence I find the tenant was served with a notice to end tenancy for non-payment of rent. The tenant did not pay the outstanding rent and ultimately vacated the unit, thus ending the tenancy.

I find the landlord has established a monetary claim in satisfaction of unpaid rent. I find the landlord's application did not specifically apply for unpaid rent. Rather, the landlord applied to solely retain the security deposit for unpaid rent. I find that if the landlord, by their application, intended to inform the tenant they were seeking all of the unpaid rent it was available to them to do so. In the absence of the tenant, however having found the tenant was served with the landlord's claim and of this hearing; I find it reasonable to conclude the tenant is aware of the landlord's claim solely as served upon them, and that it is the landlord's claim in its entirety. On balance of probabilities, I find the tenant is not aware of the landlord's request for all of the unpaid rent. As a result I find the landlord's entitlement is limited to their claim on application. I grant the landlord their claim on application to retain the security deposit in satisfaction of unpaid rent. The

landlord is further entitled to recovery of the filing fee, for a total monetary award of **\$950.00.**

I Order that the landlord retain the security deposit of \$850.00 in partial satisfaction of their monetary award and I grant the landlord an Order under Section 67 of the Act for the balance due of **\$100.00.** If necessary, this Order may be filed in the Small Claims Court and enforced as an Order of that Court.

Conclusion

The landlord's application has been granted.

This Decision is final and binding on both parties.

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: October 24, 2016

Residential Tenancy Branch