



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPL MNR FF

Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the *Residential Tenancy Act* (the "Act") for an order of possession for landlord's use of property, for a monetary order for unpaid rent or utilities, and to recover the cost of the filing fee.

The landlord attended the teleconference hearing and gave affirmed testimony. During the hearing the landlord was given the opportunity to provide his evidence orally. A summary of the evidence is provided below and includes only that which is relevant to the hearing.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing"), Application for Dispute Resolution (the "Application") and documentary evidence were considered. The landlord testified that the Notice of Hearing, amended Application and documentary evidence were served on the tenant by registered mail on September 15, 2016. A tracking number referenced on the cover page of this decision was submitted in evidence. According to the online registered mail tracking website the tenant signed for and accepted the registered mail package on September 22, 2016. The landlord stated that the package contained the Application, Notice of Hearing and the documentary evidence. Based on the above, I find that the tenant was sufficiently served as of September 22, 2016 with the Notice of Hearing, Application and documentary evidence, which is the date the tenant signed for and accepted the registered mail package.

Preliminary and Procedural Matters

At the outset of the hearing, the landlord requested to withdraw the landlord's request for an order of possession as the tenant had vacated the rental unit on or about October

4, 2016 since the landlord filed their Application. As a result, I have not considered the landlord's original request for an order of possession.

Issue to be Decided

- Is the landlord entitled to a monetary order under the *Act*, and if so, in what amount?

Background and Evidence

A copy of the tenancy agreement was not submitted in evidence. The landlord testified that a fixed term tenancy began in the spring of 2015 and reverted to a month to month tenancy in the spring of 2016. According to the landlord, monthly rent of \$1,000.00 was due on the first day of each month and that the tenant paid a security deposit of \$500.00. According to the landlord, the tenant vacated the rental unit on or about October 4, 2016.

The landlord's monetary claim of \$1,900.00 is comprised as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Unpaid August 2016 rent	\$1,000.00
2. Unpaid September 2016 rent	\$1,000.00
3. <i>Less \$100.00 filing fee owing by landlord to tenant from a previous decision</i>	<i>-\$100.00</i>
TOTAL	\$1,900.00

Regarding item 1, the landlord testified that the tenant failed to pay any rent for August 2016 in the amount of \$1,000.00.

Regarding item 2, the landlord testified that the tenant failed to pay any rent for September 2016 in the amount of \$1,000.00 and that the tenant was served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated September 2, 2016 (the "10 Day Notice") by posting it to the tenant's door on September 2, 2016. Section 90 of the *Act* deems that the document is served three days later on September 5, 2016. The landlord stated that the tenant did not dispute the 10 Day Notice or pay the amount of rent owing listed as \$1,000.00 due September 1, 2016.

The landlord stated that he owes the tenant \$100.00 for the recovery of the cost of the filing fee from a previous decision, and as a result, the landlord has deducted \$100.00 from his monetary claim to ensure the tenant is compensated for that \$100.00 amount.

Analysis

Based on the undisputed documentary evidence and undisputed testimony of the landlord provided during the hearing, and on the balance of probabilities, I find the following.

As the tenant was served with the Notice of Hearing, Application and documentary evidence and did not attend the hearing, I consider this matter to be unopposed by the tenant. Based on the evidence before me and the claim which I find to be reasonable, I find the landlord's application is fully successful in the amount of \$1,900.00. I note that this amount satisfies the tenant's recovery of the cost of the filing fee from a previous decision.

In addition, as the landlord's claim has merit, I grant the landlord the recovery of the cost of the filing fee in the amount of \$100.00. I find the landlord's total monetary claim is **\$2,000.00** as a result. The landlord continues to hold the tenant's security deposit of \$500.00 which has not accrued any interest to date.

I authorize the landlord to retain the tenant's full security deposit of \$500.00 in partial satisfaction of the landlord's monetary claim. I grant the landlord a monetary order pursuant to section 67 of the *Act*, for the balance owing by the tenant to the landlord in the amount of **\$1,500.00**.

Conclusion

The landlord's application is successful.

The landlord has proven a monetary claim in the amount of \$2000.00 The landlord has been authorized to retain the tenant's full security deposit of \$500.00 in partial satisfaction of the landlord's monetary claim. The landlord has been granted a monetary order pursuant to section 67 of the *Act*, for the balance owing by the tenant to the landlord in the amount of \$1,500.00. The landlord must serve the tenant with the monetary order and may enforce the monetary order in the Provincial Court (Small Claims Division).

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 26, 2016

Residential Tenancy Branch