



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD & FF

Introduction

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. An Order for Possession for non-payment of rent
- b. A monetary order in the sum of \$8970 for unpaid rent
- c. An Order to retain the security deposit.
- d. An order to recover the cost of the filing fee

A hearing was conducted by conference call in the presence of the applicant and in the absence of the respondents although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the 10 day Notice to End Tenancy was served on the Tenants by posting on October 12, 2016. The Residential Tenancy Act permits a party to serve another by mailing, by registered mail to where they reside. The Policy Guidelines provide that a party cannot avoid service by refusing to accept their registered mail. I find that the Application for Dispute Resolution/Notice of Hearing was served on the Tenants by mailing, by registered mail to where they reside on October 28, 2016 and it was sufficiently served even though the Tenants refused to accept the packages. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to an Order for Possession?
- b. Whether the landlord is entitled to A Monetary Order and if so how much?
- c. Whether the landlord is entitled to retain all or a portion of the security deposit/pet deposit?
- d. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start on May 1, 2015. The rent is \$3000 per month payable on the first day of each month. There is an order from an arbitrator reducing the rent by \$15 per month commencing November 1, 2016. The tenant paid a security deposit of \$1500 prior to the start of the tenancy.

The tenant(s) failed to pay the rent for the months of October (\$3000 is owed) and November (\$2985 is owed) and the sum of \$5985 remains owing. The tenant(s) vacated the rental unit on November 1, 2016. I determined the landlord sufficiently attempted to mitigate his rent loss for November 2016. .

Analysis - Order of Possession:

It is no longer necessary to consider the landlord's application for an Order for Possession as the Tenants have vacated the rental unit and the Landlord has regained possession.

Analysis - Monetary Order and Cost of Filing fee:

I determined the tenant has failed to pay the rent for the month(s) of October (\$3000 is owed) and November (\$2985 is owed) and the sum of \$5985 remains owing. September and October and the sum of \$1000 remains outstanding. I determined the landlord has given sufficient notice of their intention to claim for all of last month as provided in the Application for Dispute Resolution. I determined the landlord sufficiently attempted to mitigate his rent loss for November. I dismissed the claim for loss of rent for December. I granted the landlord a monetary order in the sum of \$5985 plus the sum of \$100 in respect of the filing fee for a total of \$6085.

Security Deposit:

I determined the security deposit plus interest totals the sum of \$1500. I ordered the landlord may retain this sum thus reducing the amount outstanding under this monetary order to the sum of \$4585.

Conclusion:

I ordered that the Landlord shall retain the security deposit of \$1500. In addition I further ordered that the Tenant(s) pay to the Landlord(s) the sum of \$4585.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

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: December 13, 2016

Residential Tenancy Branch