



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CORONET REALTY LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MND, MNR, MNSD, FF

Introduction

This hearing was scheduled to deal with a landlord's application for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent; damage to the rental unit; and, authorization to retain the security deposit. The landlord was represented at the hearing; however, the tenant did not appear.

The landlord had applied for an Order for Substituted Service and on June 27, 2016 the Arbitrator reviewing the application provided the following Order for Substituted Service:

...I order that the landlord send any correspondence to the email address on the front page of this decision. I order that the landlord include in the subject line the following details:

- *the file number set out on the covering page; and*
- *the hearing date.*

The landlord should be prepared to demonstrate at a hearing that documents were sent in accordance with this order by providing a print out of the sent email.

Any document sent by email will be deemed received by the tenant on the third day after the email is sent.

As evidence for this hearing, the landlord provided a copy of email sent to the tenant on July 15, 2016. I noted that the email address used to send the hearing documents is that provided in the Order for Substituted Service and the subject line includes reference to the file number and hearing date as ordered. Further, the email includes attachments that are scanned copies of the hearing documents. I was satisfied that the landlord served the tenant in a manner authorized and ordered in the Order for Substituted Service. Therefore, I continued to hear from the landlord without the tenant present.

During the hearing, the landlord requested that the monetary claim be amended to withdraw amounts claimed except for unpaid rent for June 2016 and recovery of the filing fee. Since the landlord was seeking to reduce the claim, I found the request to be beneficial for the tenant and I permitted the amendment.

Although the landlord requested an Order of Possession in filling this application, the tenant had already vacated the rental unit at the time of filing and an Order of Possession was not required. Accordingly, I do not provide one with this decision.

Issue(s) to be Decided

1. Has the landlord established an entitlement to recover unpaid rent from the tenant?
2. Is the landlord authorized to retain the security deposit in partial satisfaction of unpaid rent?

Background and Evidence

The month to month tenancy started on May 15, 2014 and at that time the monthly rent was set at \$1,600.00 payable on the first day of every month. By way of a Notice of Rent Increase the rent was increased to \$1,640.00 per month starting on December 1, 2015.

On May 19, 2016 the landlord posted a *1 Month Notice to End Tenancy for Cause* on the door of the rental unit for the reason the tenant was subletting the rental unit without the landlord's written consent. Rent was not paid for June 2016 and on June 2, 2016 the landlord posted a *10 Day Notice to End Tenancy for Unpaid Rent* on the door of the rental unit. On June 3, 2016 the landlord returned to the property and was advised by the building manager that the tenant was in the process of moving out. The landlord returned to the property on June 8, 2016 and determined the rental unit had been completely vacated and abandoned.

The landlord seeks to recover unpaid rent of \$1,640.00 from the tenant for the month of June 2016. The landlord seeks to recover this amount by way of the security deposit and a Monetary Order for the balance owing.

Documentary evidence provided for this proceeding included copies of: the tenancy agreement; the Notice of Rent Increase; the tenant's ledger account; the *1 Month Notice to End Tenancy for Cause*; the *10 Day Notice to End Tenancy for Unpaid Rent*; and, signed and witnessed Proof of Service for each of the Notices to End Tenancy

Analysis

Under section 26 of the Act, a tenant is required to pay rent in accordance with their tenancy agreement and the Act. Upon review of the tenancy agreement and the Notice of Rent Increase, I am satisfied that the tenant was required to pay rent of \$1,640.00 on the first day of every month in the final months of tenancy.

In order for a tenant to bring a month to month tenancy to an end and end their obligation to pay rent the tenant is required to give the landlord one full month of written notice, as provided under section 45 of the Act. In this case, I was presented no evidence to suggest the tenant gave the landlord notice to end tenancy to be effective prior to June 2016. Rather, I was provided

evidence that the landlord served the tenant with a Notice to End Tenancy for cause, as provided under section 47 of the Act, on May 19, 2016 which would bring the tenancy to an end on June 30, 2016. Therefore, I find the tenant remained obligated to pay rent for the month of June 2016 and I grant the landlord's request to recover \$1,640.00 in unpaid rent.

I further award the landlord recovery of the \$100.00 filing fee paid for this application.

I authorize the landlord to retain the tenant's security deposit in partial satisfaction of the amounts awarded to the landlord with this decision.

In light of the above, the landlord is provided a Monetary Order in the net amount of \$940.00 to serve and enforce upon the tenant [calculated as \$1,640.00 for rent + \$100.00 for the filing fee - \$800.00 security deposit].

Conclusion

The landlord has been authorized to retain the tenant's security deposit and has been provided a Monetary Order or the balance owing of \$940.00 to serve and enforce upon the tenant.

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: January 13, 2017

Residential Tenancy Branch