



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPITAL REGION HOUSING CORPORATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing was scheduled to hear 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 damages 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; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend the hearing which lasted approximately 10 minutes. The landlord attended and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that the landlord's 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "10 Day Notice") dated January 11, 2017 was served on the tenant by posting on the rental unit door on that date. I find that the 10 Day Notice was deemed served in accordance with sections 88 and 90 of the *Act* on January 14, 2017, three days after posting.

The landlord testified that the landlord's application for dispute resolution dated January 25, 2017 was served on the tenant by registered mail sent on January 27, 2017. The landlord provided a copy of the Canada Post tracking number as evidence of service. I find that the landlord's application and evidence were deemed served on the tenant in accordance with sections 89 and 90 of the *Act* on January 31, 2017, five days after mailing.

At the outset of the hearing the landlord testified that the tenant has vacated the rental unit on or before February 9, 2017 and an Order of Possession is no longer being sought. The landlord's application for an Order of Possession is withdrawn.

Issue(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent and damages as claimed?
Is the landlord entitled to recover the cost of the filing fee for this application from the tenant?

Background and Evidence

The landlord provided undisputed testimony regarding the following facts. This tenancy began on December 1, 2016. The rent is \$1,125.00 payable on the 1st of the month. A security deposit of \$562.50 was collected from the tenant at the start of this tenancy and is still held by the landlord.

The landlord testified that the tenant has failed to pay the rent for January and February, 2017. The landlord testified that at the time the 10 Day Notice was issued the tenancy was in arrears by \$1,125.00. The landlord testified that no payment was received from the tenant after serving the 10 Day Notice. The landlord said that the total amount owing for the tenancy as of February 22, 2017, the date of the hearing is \$2,250.00. The landlord testified that while they have advertised the rental unit and are seeking new tenants, they have not found new tenants as of the date of the hearing. The landlord seeks a monetary award of \$3,375.00 for past rent owing as well as compensation for the equivalent of rent for March, 2017.

Analysis

The landlord provided undisputed evidence at this hearing, as the tenant did not attend. I find that the tenant was obligated to pay the monthly rent in the amount of \$1,125.00. I accept the landlord's undisputed evidence that the total amount of arrears for this tenancy is \$2,250.00. I issue a monetary award in the landlord's favour for unpaid rent of \$2,250.00 as at February 22, 2017, the date of the hearing, pursuant to section 67 of the *Act*.

As the March rent was not yet due at the time of this hearing, I decline to issue an award for the landlord's claim for loss of March rent. The landlord is at liberty to file a separate application for any future losses incurred under this tenancy.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenant's security deposit in partial satisfaction of the monetary award issued in the landlord's favour.

As the landlord's application was successful, the landlord is also entitled to recovery of the \$100.00 filing fee for the cost of this application.

Conclusion

The landlord's application for an Order of Possession is withdrawn.

I issue a monetary order in the landlord's favour in the amount of \$1,787.50 under the following terms, which allows the landlord to recover unpaid rent for the months of October and November, and the filing fee for the application:

| Item | Amount |
|-----------------------------|-------------------|
| Unpaid Rent January | \$1,125.00 |
| Unpaid Rent February | \$1,125.00 |
| Filing Fee Recovery | \$100.00 |
| Less Security Deposit | -\$562.50 |
| Total Monetary Order | \$1,787.50 |

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this 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: February 22, 2017

Residential Tenancy Branch

