



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPC, MNR, MNSD, MNDC, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession, a monetary Order for unpaid rent or utilities, a monetary Order for money owed or compensation for damage or loss, to retain all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution. The Agent for the Landlord stated that the rental unit was vacated on February 01, 2017 and that there is no need for an Order of Possession.

The Agent for the Landlord stated that on January 17, 2017 the Application for Dispute Resolution, the Notice of Hearing and 8 documents the Landlord submitted with the Application for Dispute Resolution were personally served to the Tenant. In the absence of evidence to the contrary I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however the Tenant did not appear at the hearing. The documents were accepted as evidence for these proceedings and the hearing proceeded in the absence of the Tenant.

On January 24, 2017 the Landlord submitted 1 page of evidence to the Residential Tenancy Branch. The Agent for the Landlord stated that this document was personally served to the Tenant on January 24, 2017. In the absence of evidence to the contrary I find that this document was served in accordance with section 88 of the *Act* and it accepted as evidence for these proceedings.

On February 02, 2017 the Landlord submitted a Monetary Order Worksheet, in which the Landlord applied for an additional \$1,000.00 in compensation for "repairs & cleaning", 6 pages of evidence, and a DVD. On February 03, 2017 the Landlord submitted a Monetary Order Worksheet, in which the Landlord amended the amount of the claim for unpaid utilities to \$309.14. On February 08, 2017 the Landlord submitted one page of evidence.

The Agent for the Landlord stated that all of the evidence submitted to the Residential Tenancy Branch in February was placed in the Tenant's mail box at various times on, or

after February 02, 2017. As the Landlord declared that the rental unit was vacated on February 01, 2017 the Landlord was advised that none of the evidence left in the Tenant's mail box after February 01, 2017 was accepted as evidence for these proceedings.

Preliminary Matter

On the Monetary Order Worksheet that was submitted to the Residential Tenancy Branch on February 02, 2017 the Landlord added a claim for "repairs & cleaning", in the amount of \$1,000.00. The Agent for the Landlord stated that this document was placed in the Tenant's mail box on February 02, 2017. As the Landlord declared that the rental unit was vacated on February 01, 2017 I find that this document was not properly served to the Tenant. As the document was not properly served to the Tenant, the additional claim for cleaning and repairs will not be considered at these proceedings.

The Landlord retains the right to file another Application for Dispute Resolution in which the Landlord claims compensation for repairs and cleaning.

Issue(s) to be Decided

Is the Landlord entitled to a monetary Order for unpaid utilities and to keep all or part of the security deposit?

Background and Evidence

The Agent for the Landlord stated that:

- this tenancy began on June 01, 2011;
- the Tenant agreed to pay monthly rent of \$1,650.00 by the first day of each month;
- the Tenant paid a security deposit of \$700.00;
- a One Month Notice to End Tenancy for Cause, which had an effective date of February 28, 2017, was personally served to the Tenant on January 05, 2017; and
- the rental unit was vacated on February 28, 2017.

The Landlord was advised that the utility bills that were placed in the Tenant's mail box after February 01, 2017 could not be considered at these proceedings. After being advised that the utility bills could not be considered at the proceedings, the Landlord opted to withdraw the claim for unpaid utilities.

Analysis

The Landlord has withdrawn the claim for unpaid utilities. I therefore find that the Landlord retains the right to file another Application for Dispute Resolution seeking compensation for unpaid utilities.

As the Landlord has failed to establish a right to retain any portion of the security deposit I am unable to grant him authority to retain any portion of the deposit. The Landlord retains the right to file another Application for Dispute Resolution seeking to retain all or part of that deposit. As there is no evidence to show that the Tenant as provided the Landlord with a forwarding address, in writing, the Landlord is not yet required to return any portion of the deposit.

As the Tenant vacated the rental unit prior to the effective date of the One Month Notice to End Tenancy for Cause, I find that the Landlord did not need to file an application for an Order of Possession. As the Landlord did not need to file an application for an Order of Possession and he failed to establish the merits of his application for a monetary Order, I find that the Landlord is not entitled to recover the cost of filing this Application for Dispute Resolution.

Conclusion

The Landlord has failed to establish that he is entitled to a monetary Order or an Order of Possession.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: February 09, 2017

Residential Tenancy Branch