



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with 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 pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not participate in the conference call hearing, which lasted approximately 10 minutes. Landlord JS (the "landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed she had authority to speak on behalf of landlord MS.

The landlord testified that the tenant was personally served with the landlord's application for dispute resolution hearing package on January 27, 2017, at the rental unit where the tenant was residing. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's application on January 27 2017, the day it was served.

Preliminary Issue – Previous Decision

At the outset of the hearing, the landlord testified that a previous decision was rendered regarding this tenancy. The file number has been included on the front page of this decision for ease of reference. The landlord was issued an order of possession which she successfully executed on Friday February 10, 2017. Consequently the only remedy the landlord is now seeking is the monetary order for unpaid rent and filing fee.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

Is the landlord authorized to recover the filing fee for this application from the tenant?

Background and Evidence

As per the submitted tenancy agreement and testimony of the landlord, the tenancy began on November 1, 2016 on a month-to-month basis. Rent in the amount of \$2,500.00 was payable on the first of each month. The tenant remitted a security deposit in the amount of \$1,250.00 and pet deposit in the amount of \$500.00 at the start of the tenancy.

The landlord seeks a monetary order of \$5,000.00 for unpaid rent from January to February 2017. The landlord claimed that the tenant has not paid any rent for the above two months.

The landlord is also seeking to recover the \$100.00 filing fee for this application from the tenant.

Analysis

Section 26 of the *Act* requires the tenant to pay rent on the date indicated in the tenancy agreement, which is the first day of each month. Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, *Residential Tenancy Regulation* (the "*Regulation*") or tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply.

I find that the landlord proved that the current rent for this unit is \$2,500.00. I find the landlord provided undisputed evidence that the tenant failed to pay full rent from January to February 2017. Therefore, I find that the landlord is entitled to \$5,000.00 in rent.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for the application, for a total award of \$5,100.00.

In accordance with the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the security deposit and pet deposit in the total amount of \$1,750.00 in partial satisfaction of the monetary award and I grant an order for the balance due \$3,350.00.

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$3,350.00 against 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: February 16, 2017

Residential Tenancy Branch