



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.

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

At the outset of the hearing, the landlord testified that she would not be pursuing the landlord's application for the order of possession at this hearing. She stated that the tenant had already vacated the rental unit on January 30, 2017. Accordingly, this portion of the landlord's claim is dismissed without leave to reapply. The landlord still seeks the monetary order.

The landlord testified that the tenant was personally served with the landlord's application for dispute resolution hearing package on January 18, 2017, at the rental unit where the tenant is residing. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was duly served with the landlord's application on January 18, 2017, the day it was served.

Issue(s) to be Decided

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

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

Background and Evidence

The landlord testified that the tenancy began September 1, 2015 on a fixed term until August 31, 2016 at which time the tenancy continued on a month-to-month basis. Rent in the amount of \$1,900.00 was payable on the first of each month. The tenant remitted \$1,600.00 for the security deposit at the start of the tenancy. The tenant vacated the rental unit on January 30, 2017.

The landlord seeks a monetary order of \$3,800.00 for unpaid rent for December 2016 and January 2017. 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 \$1,900.00. I find the landlord provided undisputed evidence that the tenant failed to pay rent for December 2016 and January 2017. Therefore, I find that the landlord is entitled to \$3,800.00 in rent.

In accordance with the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the security deposit in the total amount of \$1,600.00 in partial satisfaction of the monetary award and I grant an order for the balance due \$2,200.00. 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 \$2,300.00.

Conclusion

The landlord's application for an order of possession is dismissed.

I issue a monetary order in the landlord's favour in the amount of \$2,300.00 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 08, 2017

Residential Tenancy Branch