



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for a monetary order for unpaid rent. During the hearing the landlord requested the recovery of the filing fee.

On February 20, 2017, the landlord had made application for dispute resolution by direct request. The application was processed on February 27, 2017 and the landlord was granted an order of possession and a monetary order for unpaid rent in the amount of \$1,800.00. The tenant made application for a review hearing on the grounds of fraud. The tenant was granted a review hearing which was scheduled to be heard on this date. The review decision ordered the tenant to serve the landlord with the notice of today's hearing along with a copy of the review decision.

The landlord testified that he did not receive the notice of hearing package from the tenant and found out about this hearing by calling the Residential Tenancy Branch Office. Despite having applied for a review hearing and having been notified of this hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

On April 01, 2017, the landlord filed an amendment to his application to claim the cost of the bailiff, repairs and unpaid rent. The landlord agreed that he had not served the amendment on the tenant and therefore I was unable to hear this portion of his application. This portion of the landlord's claim is dismissed with leave to reapply.

At the time of this hearing the tenant had already moved out and therefore the landlord does not require an order of possession. Accordingly this hearing only dealt with the landlord's application for unpaid rent and the filing fee.

Issues to be decided

Is the landlord entitled to a monetary order to recover unpaid rent and the filing fee?

Background and Evidence

The landlord testified that the tenancy started on November 27, 2016. The monthly rent was \$1,800.00 due on the first of each month. The landlord stated that the tenant failed to pay rent that was due on February 01 and March 01 2016.

The landlord stated that he had received a copy of the review decision regarding the tenant's claim that he had paid rent for February in cash and that the landlord had provided a handwritten receipt. The landlord stated that he has not received rent for February 2017 and did not issue a handwritten receipt. The landlord has not been served a copy of the receipt by the tenant. On February 02, 2017, the landlord served the tenant with a ten day notice to end tenancy for \$1,800.00 in unpaid rent. The landlord testified that the tenant was evicted with the help of a bailiff and the police on March 23, 2017. The tenant is claiming unpaid rent for February and March 2017.

Analysis

Based on the undisputed sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy for unpaid rent, on February 02, 2017 and did not pay rent within five days of receiving the notice to end tenancy nor did the tenant make application, pursuant to Section 46 to set aside the notice to end a residential tenancy, and the time to do so has expired.

I find that the landlord is entitled to \$3,600.00 for unpaid rent for the months of February and March 2017. Since the landlord has proven his claim, he is also entitled to the recovery of the filing fee of \$100.00 for a total entitlement of \$3,700.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for this amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord a monetary order in the amount of **\$3,700.00**.

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: April 11, 2017

Residential Tenancy Branch