



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ACTION PROPER MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR, MNSD, FF, MNDC

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 and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenants' pet damage and security deposits (the deposits) in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover his filing fee for this application from the tenants pursuant to section 72.

The tenant did not attend this hearing, although I waited until 9:40 a.m. in order to enable them to connect with this teleconference hearing scheduled for 9:30 a.m. The landlords' agent attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord entered written evidence from his agent and sworn testimony from the agent that she posted the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenants' door on March 14, 2017. I am satisfied that the landlord's agent served this Notice to the tenants in accordance with section 88 of the *Act*. In accordance with section 90 of the *Act*, the 10 Day Notice was deemed served to the tenants on March 17, 2017, the third day after its posting.

The landlords' agent gave written evidence and sworn oral testimony that copies of the landlord's dispute resolution hearing package was sent to the tenant by registered mail on March 31, 2017. The landlord entered into written evidence the Canada Post Tracking Numbers, showing that the hearing package was sent to the tenant by Registered Mail and was signed and accepted for on April 21, 2017; In accordance with sections 89 and 90 of the *Act* I am satisfied the tenant was served notice of this hearing. The hearing proceeded and completed on this date in the absence of the tenant.

Preliminary Issue

The landlords' agent advised that the tenant abandoned the unit in late April and that the landlord has taken possession of the unit; accordingly I dismiss the landlords request for an order of possession as it is no longer required.

Issues(s) to be Decided

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

Is the landlord entitled to retain all or a portion of the tenants' deposits in partial satisfaction of the monetary award requested?

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

Background and Evidence

The tenancy began on or about June 17, 2015. Rent in the amount of \$1000.00 is payable in advance on the first day of each month. At the outset of the tenancy the tenant paid a \$500.00 security deposit which the landlord still holds in trust. The tenant failed to pay rent in the month(s) of February and March and on March 14, 2017 the landlords' agent served the tenant with a notice to end tenancy. The landlord testified that the tenant is also responsible for \$25.00 late fee x 3 months as per their tenancy agreement. The landlord is also seeking the recovery of the \$100.00 filing fee.

The landlord is applying for the following

Item	Amount
Unpaid Rent Feb, Mar, Apr	3000.00
Late fees Feb, Mar, Apr	75.00
Filing fee	100.00
Less Deposits	-500.00
Total Monetary Order	\$2675.00

Analysis

The tenant failed to pay their rent in full within five days of being deemed to have received the 10 Day Notices. The tenant has not made application pursuant to section 46(4) of the *Act* within five days of being deemed to have received the 10 Day Notice. In accordance with section

46(5) of the *Act*, the tenants' failure to take either of these actions within five days led to the end of their tenancy on the corrected effective date of the notice. Based on the undisputed evidence provided by the landlord, I am satisfied that the tenants continue to owe the landlord unpaid rent and late fees. The landlord is entitled to unpaid rent of \$3000.00, \$75.00 in late fees as well as the recovery of the \$100.00 filing for a total award of \$3175.00. Using the offsetting provision under Section 72 of the *Act*, the landlord is entitled to retain the security deposit in partial satisfaction of the claim.

Conclusion

The landlord has been successful for the following:

Item	Amount
Unpaid Rent Feb, Mar, Apr	3000.00
Late fees Feb, Mar, Apr	75.00
Filing fee	100.00
Less Deposits	-500.00
Total Monetary Order	\$2675.00

I grant the landlord an order under section 67 for the balance due of \$2675.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court. The landlord may retain the security deposit.

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: May 08, 2017

Residential Tenancy Branch