



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a Monetary Order for unpaid rent, damages and loss pursuant to section 67;
- authorization to retain all or a portion of the security deposit for this tenancy pursuant to section 38; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant 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 affirmed testimony, to make submissions and to call witnesses.

The landlord testified that a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the "10 Day Notice"), dated March 27, 2017 was served on the tenant by posting on the rental unit door on that day. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's 10 Day Notice on March 30, 2017, three days after posting.

The landlord testified that the landlord's application for dispute resolution dated April 7, 2017 was personally served on the tenant in the presence of a witness on April 8, 2017. I find that the tenant was served with the landlord's application and evidentiary materials in accordance with sections 88 and 89 of the *Act* on that date.

At the outset of the hearing, the landlord testified that the tenant has moved out of the rental unit and withdrew the portion of the application seeking an Order of Possession.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation for unpaid rent, damage and loss as claimed?

Is the landlord entitled to retain all or a portion of the security deposit for this tenancy?

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

Background and Evidence

The landlord provided undisputed testimony regarding the following facts. This month-to-month tenancy began in March, 2017. The tenant paid a security deposit of \$350.00 at the start of the tenancy and it is still held by the landlord. The monthly rent was \$1,200.00 payable on the first of each month. The landlord testified that the tenant moved out of the rental unit sometime in May, 2017.

The landlord testified that the tenant failed to pay the monthly rent since the tenancy began. The tenancy was in arrears by \$1,200.00, the amount initially sought in the 10 Day Notice, at the time the 10 Day Notice was issued. The landlord testified that the tenant has made no subsequent payments and the total amount owing for the tenancy as of May 12, 2017, the date of the hearing, is \$3,600.00, the rent for the months of March, April, and May, 2017.

Analysis

The landlord provided undisputed evidence at this hearing, as the tenant did not attend. I find that the tenant was obligated to pay the monthly rent in the amount of \$1,200.00. I accept the landlord's undisputed evidence that the tenant failed to pay the rent for the months of March, April and May, 2017 and the total amount of arrears for this tenancy is \$3,600.00. I issue a monetary award for unpaid rent of \$3,600.00 as at May 12, 2017, the date of the hearing, pursuant to section 67 of the *Act*.

As the landlord's application was successful, the landlord is also entitled to recovery of the \$100.00 filing fee for the cost of this application.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenant's \$350.00 security deposit in partial satisfaction of the monetary award issued in the landlord's favour.

Conclusion

The portion of the application seeking an Order of Possession is withdrawn.

I issue a monetary order in the landlord's favour in the amount of \$3,350.00 under the following terms, which allows the landlord to recover unpaid rent, and the filing fee for the application:

Item	Amount
Unpaid Rent March	\$1,200.00
Unpaid Rent April	\$1,200.00
Unpaid Rent May	\$1,200.00
Filing Fees	\$100.00
Less Security Deposit	-\$350.00
Total Monetary Order	\$3,350.00

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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 12, 2017

Residential Tenancy Branch