



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNDC, MNSD, 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 and utilities, pursuant to section 55;
- a monetary order for unpaid rent, utilities, and for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit, pursuant to section 38; and
- authorization to recover the filing fee for this application, pursuant to section 72 .

The tenant did not attend this hearing, which lasted approximately 32 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 she personally served the tenant with a copy of the landlord's application for dispute resolution hearing package on May 5, 2017. In accordance with section 89 of the *Act*, I find that the tenant was served with the landlord's application on May 5, 2017.

At the outset of the hearing, the landlord confirmed that she did not require an order of possession because the tenant had already vacated the rental unit and the landlord already took possession back. Accordingly, this claim is dismissed without leave to reapply.

The landlord confirmed that she did not file an application or amendment form to recover unpaid rent from May 1 to 15, 2017. I asked the landlord if she wanted to verbally request an amendment to her application at this hearing and she said that she did not.

Issues to be Decided

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

Is the landlord entitled to retain the tenant's security deposit?

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

Background and Evidence

The landlord testified regarding the following facts. This tenancy began on February 1, 2017 and ended on May 8, 2017. Monthly rent in the amount of \$1,000.00 is payable biweekly in \$500.00 installments on the 1st and 15th days of each month. A security deposit of \$500.00 was paid by the tenant and the landlord continues to retain this deposit. A written tenancy agreement was signed by both parties and a copy was provided for this hearing.

The landlord seeks a monetary order of \$845.54 plus recovery of the \$100.00 application filing fee. The landlord seeks \$500.00 in unpaid rent due on April 15, 2017. The landlord also seeks \$345.54 in unpaid utilities. The landlord said that the tenant owes \$135.70 for gas from February 16 to March 15, 2017 and \$209.84 for hydro from January 31 to March 17, 2017. The landlord did not submit copies of any utility bills or written demands for the utilities, claiming that no one told her to do so. The landlord confirmed that her addendum to the tenancy agreement, which she provided for this hearing, indicates that she will send a photograph of the utility bills to the tenant when demanding payment.

Analysis

Section 26 of the Act requires the tenant to pay rent on the date indicated in the written tenancy agreement, which in this case, are the 1st and 15th days of each month. Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, *Regulation* or tenancy agreement must compensate a landlord for damage or loss that results from that failure to comply. However, section 7(2) of the *Act* places a responsibility on a landlord claiming compensation for loss resulting from a tenant's non-compliance with the *Act* to do whatever is reasonable to minimize that loss.

The landlord provided undisputed evidence that the tenant failed to pay rent of \$500.00 on April 15, 2017. Therefore, I find that the landlord is entitled to \$500.00 in unpaid rent from the tenant.

I find that the landlord failed to provide utility bills or receipts to justify the \$345.54 that she is claiming in gas and hydro charges from the tenant. The landlord said that the information was in front of her during the hearing but she failed to provide copies, despite having ample time prior to this hearing. This claim is dismissed without leave to reapply.

The landlord continues to hold the tenant's security deposit of \$500.00. Over the period of this tenancy, no interest is payable on the deposit. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the tenant's entire security deposit of \$500.00 in full satisfaction of the monetary award.

As the landlord was mainly unsuccessful in this application, I find that she is not entitled to recover the \$100.00 filing fee from the tenant.

Conclusion

I order the landlord to retain the tenant's entire security deposit of \$500.00 in full satisfaction of the monetary award.

The remainder of the landlord's application is dismissed without leave to reapply.

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 29, 2017

Residential Tenancy Branch