



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR MNR MND MNDC 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;
- a monetary order for damage, monetary loss or money owed pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

While the landlord attended the hearing by way of conference call, the tenant did not. I waited until 2:31 p.m. to enable the tenant to participate in this scheduled hearing for 2:00 p.m. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord gave sworn testimony that on February 16, 2017 copies of the Application for Dispute Resolution hearing package ('Application') and evidence were served to the tenant by registered mail to the forwarding address provided in July 2017. In accordance with sections 88, 89, and 90 of the *Act*, I find that the tenant was deemed served with copies of the landlord's application and evidence on February 21, 2017, five days after mailing. The tenant did not submit any written evidence for this hearing.

The landlord provided undisputed testimony that the tenant was served with the 10 Day Notice on August 19, 2016 by way of posting the notice on the tenant's door. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the 10 Day Notice on August 22, 2016, three days after posting.

The landlord testified that the tenant moved out on August 24, 2016 and was withdrawing his application for an Order of Possession.

Issue(s) to be Decided

Is the landlord entitled to a monetary award for damage, unpaid rent or money owed under the tenancy agreement, regulation, or *Act*?

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

Background and Evidence

The landlord gave undisputed testimony regarding the following facts. This fixed-term tenancy began on July 1, 2016, with monthly rent set at \$1,650.00, payable on the first of each month. The tenant never paid a security deposit to the landlord.

The landlord issued the 10 Day Notice on August 19, 2017 to the tenant indicating an effective move-out date of August 30, 2017. A copy of the 10 Day Notice was included in the landlord's evidence. The tenant moved out on August 24, 2017, before the effective date of the 10 Day Notice, leaving his belongings behind. The landlord testified that the tenant only made partial rent payments for July and August 2016. On July 29, 2016 the tenant paid \$600.00, and on August 15, 2016 the tenant paid \$950.00. The outstanding rent owing is \$1,750.00 ($\$1,650.00 \times 2 - \$1,550.00$).

The landlord indicated in the hearing there was an error in her calculation of the unpaid rent and requested an amendment to correct the amount from \$1,625.00 to \$1,750.00. I have considered the landlord's request for amendment since it increases the monetary claim by \$125.00. I note that this amendment request arises out of a calculation error of the rent owed, which I find to be a reasonable request considering that the tenant is, or should be, aware of the rent that is payable and owed to the landlord. On this basis I accepted the landlord's request to amend their original application from \$1,625.00 to \$1,750.00 to reflect the correct calculation.

The landlord is also seeking a Monetary Order for the losses incurred due to the tenant's abandonment of the property:

Item	Amount
Cleaning Service	\$210.00
Junk Removal	180.00
Services of Property Manager	1,054.75
Total Monetary Order Requested	\$1,444.75

The landlord provided receipts and invoices in their evidence to support the above claims.

MR, the landlord's property manager, testified in this hearing that he was hired on August 15, 2016 to deal with this tenancy as the tenant was uncooperative, and failed to pay the landlord rent, or answer emails. MR testified that he assisted the landlord in mitigating his losses by

helping him issue the 10 Day Notice, and re-renting the suite for September 15, 2016 for \$1,800.00 per month. MR testified that the tenant had abandoned the suite, leaving his belongings, and failing to leave the suite in a reasonably clean condition. The landlord's evidence contains photos which depict the tenant's personal belongings left by the tenant. The landlord testified that no move-in inspection was done as the tenant failed to show up at the designated time and date.

Analysis

Section 26 of the Act, in part, states as follows:

Rules about payment and non-payment of rent

26 (1) A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

The landlord provided undisputed evidence that the tenant failed to pay the rent in full for the months of July and August 2016. Therefore, I find that the landlord is entitled to \$1,750.00 in arrears for the above period.

Section 37(2)(a) of the *Act* stipulates that when a tenant vacates a rental unit the tenant must leave the rental unit reasonably clean, and undamaged except for reasonable wear and tear. The landlord provided, in evidence, receipts and invoices to support her claim. The landlord's witness also provided undisputed testimony that the tenant had moved out, abandoning his belongings and failing to properly clean the suite. I find that the landlord provided sufficient evidence to support the value of the loss that the landlord suffered due to the tenant's abandonment of his personal property. Accordingly, I allow the landlord to recover \$210.00 for the professional cleaning and \$180.00 for the junk removal for a total of \$390.00.

In regards to the landlord's claim to recover the costs of hiring a property manager, I find the landlord made a business decision to retain the services of a property manager. As a result, I am not satisfied the landlord has demonstrated that this decision was necessary as a result of any violation of the Act, regulation, or tenancy agreement on the part of the tenant. On this basis, I dismiss this portion of the landlord's monetary claim.

I find that the landlord is entitled to recovery of half the filing fee in the amount of \$50.00, as she was only partially successful in her claim.

Conclusion

I issue a \$2,190.00 Monetary Order in favour of the landlord under the following terms, which allows the landlord to recover unpaid rent, the filing fee, and also allows the landlord to recover the losses associated with this tenancy:

Item	Amount
Unpaid Rent for July 2016	\$1,050.00
Unpaid Rent for August 2016	700.00
Cost of Cleaning	210.00
Cost of Junk Removal	180.00
Recovery of Half the Filing Fee	50.00
Total Monetary Order	\$2,190.00

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: July 21, 2017

Residential Tenancy Branch