



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

OPR MNR 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 11:11 a.m. to enable the tenant to participate in this scheduled hearing for 11:00 a.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 June 2, 2017 the landlord's Application for Dispute Resolution hearing package ('Application') was served to the tenant by registered mail. In accordance with sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's application on June 7, 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 April 3, 2017 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 April 6, 2017, three days after posting.

The landlord testified that the tenant moved out on July 1, 2017, 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 September 1, 2016, with monthly rent set at \$2,000.00 payable on the first of each month. The landlord collected, and still holds, a \$1,000.00 security deposit.

The landlord issued the 10 Day Notice on April 3, 2017 to the tenant for failing to pay rent in the amount of \$3,600.00. A copy of the 10 Day Notice was included in the landlord's evidence. The tenant has not paid the outstanding rent since the 10 Day Notice was issued, and moved out on July 1, 2017.

The landlord is also seeking a Monetary Order in the amount of \$7,300.00 for unpaid rent as indicated below:

Item	Amount
November 2016 rent	\$200.00
March 2017 rent	1,400.00
April 2017 rent	1,700.00
May 2017 rent	2,000.00
June 2017 rent	2,000.00
Total Monetary Order Requested	\$7,300.00

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 only paid partial rent for the months of November 2016, March 2017, and April 2017. The landlord testified that the tenant failed to pay full rent for the months of May and June 2017. I accept the landlord's undisputed evidence, and I find that the landlord is entitled to \$7,300.00 in arrears for the above period.

The landlord continues to hold the tenant's security deposit in the amount of \$1,000.00. In accordance with the offsetting provisions of section 72 of the Act, I order the landlord to retain the tenant's security deposit in partial satisfaction of the monetary claim.

I find that the landlord is entitled to recovery the \$100.00 filing fee from the tenant.

Conclusion

I issue a \$6,400.00 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 retain the tenant's security deposit in partial satisfaction of the monetary claim

Item	Amount
November 2016 rent	\$200.00
March 2017 rent	1,400.00
April 2017 rent	1,700.00
May 2017 rent	2,000.00
June 2017 rent	2,000.00
Recovery of Filing Fee	100.00
Security Deposit	-1,000.00
Total Monetary Order	\$6,400.00

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 24, 2017

Residential Tenancy Branch