



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR OPR FF

Introduction:

Both parties made Applications but only the landlord attended the hearing and gave sworn testimony. She stated that the 10 Day Notice to End Tenancy dated July 11, 2017 to be effective July 21, 2017 and the Application for Dispute Resolution were both served personally with a witness (proof of service filed). I find that the tenant was legally served with the documents according to sections 88 and 89 of the Act. The landlord applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) A monetary order pursuant to Section 67;
- b) An Order of Possession pursuant to Sections 46, and 55; and
- d) An order to recover the filing fee pursuant to Section 72.

The tenant requests the Notice to End Tenancy be set aside as she paid the rent and has receipts.

Issue(s) to be Decided:

Is the landlord entitled to an Order of Possession and a Monetary Order for rental arrears and filing fee?

Or is the tenant entitled to any relief?

Background and Evidence:

Only the landlord attended although the tenant was served with the Notice of Hearing. The landlord was given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenancy commenced April 1, 2017 on a fixed term to October 1, 2017, a security deposit of \$850 was paid and rent is \$1700 plus utilities a month. The landlord is claiming the rental arrears of \$1700 for July 2017 and utility arrears of \$105.01. The landlord said she no longer requires an Order of Possession as the tenant vacated on July 27, 2017. The tenant submitted no documents to dispute the amount owing and did not attend the hearing.

In evidence is the Notice to End Tenancy and proofs of service, a tenancy agreement and the results of a previous hearing. On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

The tenant has vacated so an Order of Possession is not required.

Monetary Order

I find that there are rental arrears of \$1700 and utilities owing of \$105.01 until the end of July 2017. I find the landlord entitled to a monetary order for \$1805.01. The landlord said she did not wish to deduct the security deposit from the amount owing as there are damages to the unit and she gave the tenant three opportunities in writing to do a move out condition inspection report and the tenant did not respond. She believes she has the right under the Act to keep the deposit.

I find insufficient evidence to support the tenant's assertion that she paid the outstanding rent. She submitted no receipts which she claimed she had. I dismiss the tenant's application.

Conclusion:

I find the landlord is entitled to a monetary order as calculated below. I find the landlord is entitled to recover filing fees paid for this application. I give the landlord leave to reapply for further over holding rent and damages. I dismiss the Application of the tenant in its entirety without leave to reapply.

Calculation of Monetary Award:

Rental Arrears July 2017	1700.00
Utilities	105.01
Filing fee	100.00
Total Monetary Order to Landlord	1905.01

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: August 30, 2017

Residential Tenancy Branch