



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, 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; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The landlord D.M. and the tenant attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The landlord D.M. (the landlord) stated that she would be representing the interests of both landlords in this matter.

The tenant acknowledged receipt of the Landlord's Application for Dispute Resolution (the Application) and evidentiary package sent to the tenant on August 24, 2017 via registered mail. Pursuant to section 88 and 89 of the *Act*, I find the tenant has been duly served with these documents. The landlord acknowledged receipt of the tenant's evidentiary package. Pursuant to section 88 of the *Act*, I find the landlord has been duly served with the tenant's evidence.

The landlord entered into evidence a Proof of Service Document, signed by the tenant, attesting to the fact that a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) was personally handed to the tenant at 4:53 p.m. on August 10, 2017. In accordance with section 88 of the *Act*, I find the tenant was duly served with the 10 Day Notice, identifying \$7,201.00 in unpaid rent owing for this tenancy.

Preliminary Matters

During the course of the hearing it was established that the tenant gave possession of the rental back to the landlord on August 18, 2017 as a result of the 10 Day Notice. The landlord requested to withdraw their application for an Order of Possession.

The landlord's application for an Order of Possession is withdrawn.

Issues(s) to be Decided

Are the landlords entitled to a monetary award for unpaid rent?

Are the landlords entitled to recover the filing fee for this application from the tenant?

Background and Evidence

While I have turned my mind to all the documentary evidence, including written statements and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The landlord gave written evidence that this tenancy began on March 01, 2016, with a monthly rent of \$1,000.00, due on the first day of each month. The landlord testified that no security deposit was paid by the tenant. The tenant testified that she paid a security deposit in the amount of \$3,000.00 before the tenancy began. The landlord has not applied to keep the security deposit; therefore I will not address the security deposit in this hearing.

A copy of the 10 Day Notice, dated August 10, 2017, with an effective date of August 20, 2017, was included in the landlord's evidence.

A copy of a proposed payment plan dated August 02, 2017, and signed by the tenant, stating that the tenant would pay \$3,000.00 on August 10, 2017, \$1,000.00 on August 18, 2017, \$1,000.00 on September 01, 2017 and \$1,000.00 on September 06, 2017, which would leave a balance owing of \$1,201.00, was included in the landlord's evidence.

A copy of a tenant ledger was also included in the landlord's evidence.

A copy of a creditor's package was submitted by the tenant.

The landlord testified that the tenant submitted a payment plan in August of 2017 to the landlords to catch up on the unpaid rent that is owed. The landlord testified that no payments were received.

The landlord's application for a monetary award of \$7,201.00 is for the following items:

Item	Amount
Unpaid Rent for January 2017	\$201.00
Unpaid Rent for February 2017	1,000.00
Unpaid Rent for March 2017	1,000.00
Unpaid Rent for April 2017	1,000.00
Unpaid Rent for May 2017	1,000.00
Unpaid Rent for June 2017	1,000.00
Unpaid Rent for July 2017	1,000.00
Unpaid Rent for August 2017	1,000.00
Requested Monetary Order	\$7,201.00

Analysis

Section 26 of the *Act* requires a tenant to pay rent to the landlords, regardless of whether the landlords comply with the *Act*, regulations or tenancy agreement, unless the tenant has a right to deduct all or a portion of rent under the *Act*.

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. Section 7(1) of the *Act* establishes that a tenant who does not comply with the *Act*, the regulations or the tenancy agreement must compensate the landlord for damage or loss that results from that failure to comply.

I find that, based on the landlord's written evidence and sworn testimony, the landlords are entitled to a monetary award of \$7,201.00 for unpaid rent owing for this tenancy for the period of January 2017 to August 2017.

As the landlords have been successful in this application, I allow them to recover their \$100.00 filing fee from the tenant.

Conclusion

I grant a Monetary Order in the landlords' favour under the following terms, which allows the landlords to recover unpaid rent and the filing fee for this application from the tenant:

Item	Amount
Unpaid Rent for January 2017	\$201.00
Unpaid Rent for February 2017	1,000.00
Unpaid Rent for March 2017	1,000.00
Unpaid Rent for April 2017	1,000.00
Unpaid Rent for May 2017	1,000.00
Unpaid Rent for June 2017	1,000.00
Unpaid Rent for July 2017	1,000.00
Unpaid Rent for August 2017	1,000.00
Filing Fee for this Application	100.00
Requested Monetary Order	\$7,301.00

The landlords are provided with these Orders in the above terms and the tenant must be served with this Order as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders 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: September 21, 2017

Residential Tenancy Branch