



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

This hearing dealt with a landlord's application for a Monetary Order for unpaid rent and authorization to retain the tenant's security deposit. The landlord appeared at the hearing but the tenant did not. The landlord testified that the hearing documents were sent to the tenant via registered mail on April 27, 2017 to the tenant's forwarding address. The landlord orally provided the registered mail tracking number and a search of the tracking number showed that the registered mail was delivered to the tenant on May 1, 2017. I noted that the Residential Tenancy Branch had received a written response and evidence from the tenant. Accordingly, I was satisfied the tenant was duly notified of this proceeding and I continued to hear from the landlord without the tenant present.

As for the tenant's written response and evidence, the landlord stated that the tenant's package had not been served upon him. I did not consider the tenant's written response and evidence further pursuant to Rule 7.4 which provides:

7.4 Evidence must be presented

Evidence must be presented by the party who submitted it, or by the party's agent.

If a party or their agent does not attend the hearing to present evidence, any written submissions supplied may or may not be considered.

Issue(s) to be Decided

1. Is the landlord entitled to recover unpaid rent from the tenant?
2. Is the landlord authorized to retain the tenant's security deposit?

Background and Evidence

The parties executed a written tenancy agreement for a tenancy set to commence March 16, 2017 for a six month fixed term. The monthly rent was set at \$1,050.00 due on the first day of every month. The tenant paid a security deposit of \$525.00.

The landlord testified that at the end of March 2017 the tenant notified the landlord that she was vacating the rental unit and that she had issues with the rental unit, including concerns that somebody had died in the rental unit. The landlord stated that he was unaware of a death in the rental unit. The tenant did not pay rent that was due on April 1, 2017 and the landlord found the rental unit vacant, with the keys left in the unit, on April 1, 2017. The landlord posted a 10 Day Notice to End Tenancy for Unpaid Rent on the door of the rental unit on April 2, 2017. The tenant did not pay the outstanding rent or dispute the 10 Day Notice. The landlord re-rented the unit in the end of April 2017 for a tenancy set to commence May 1, 2017.

The landlord seeks to recover unpaid rent of \$1,050.00 from the tenant for the month of April 2017.

The landlord provided a copy of the tenancy agreement as documentary evidence for this proceeding.

Analysis

Under section 26 of the Act, a tenant is required to pay rent when due under the tenancy agreement during the tenancy, even if the landlord has violated the Act, regulations or tenancy agreement until such time the tenancy ends. Section 44 of the Act provides for the ways a tenancy ends.

Upon review of the tenancy agreement, I find the tenant was required to pay rent of \$1,050.00 on the first day of every month for a fixed term of six months and I was not provided evidence to suggest the tenant ended the tenancy in a manner permitted under the Act. Accordingly, I find the tenant breached the tenancy agreement and the Act. Given the very short notice given to the landlord I find it reasonable that the rental unit remained vacant for the month of April 2017 and I accept that the landlord suffered a loss of rent for that month. Therefore, I grant the landlord's request to recover unpaid and/or loss of rent for the month of April 2017 in the amount of \$1,050.00 from the tenant.

I further award the landlord recovery of the \$100.00 filing fee paid for this application.

I authorize the landlord to retain the tenant's security deposit in partial satisfaction of the unpaid rent.

In light of all of the above, I provide the landlord with a Monetary Order in the net amount of \$625.00 [calculated as: \$1,050.00 + \$100.00 - \$525.00] to serve and enforce upon the tenant.

Conclusion

The landlord is authorized to retain the tenant's security deposit and the landlord has been provided a Monetary Order for the balance owing of \$625.00 to serve and enforce upon he tenant.

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 28, 2017

Residential Tenancy Branch