



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Bayside Property Services Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, MNR, MNSD, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for Possession - Section 55;
2. A Monetary Order for unpaid rent - Section 67;
3. An Order to retain the security deposit - Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Tenant did not attend the hearing. I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing (the “Materials”) by registered mail on September 12, 2017 in accordance with Section 89 of the Act. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Tenant is deemed to have received the mail on September 17, 2017. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

The Landlord states that the Tenant has moved out of the unit and withdraws the claim for an order of possession.

Issue(s) to be Decided

Is the Landlord entitled to unpaid rent and late rent fees?

IS the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy started on August 1, 2014 and ended on October 3, 2017. The tenancy ended as a result of the issuance of a one month notice to end tenancy for cause with the reasons states as repeated late payments of rent. Rent of \$922.00 was payable on the first day of each month. At the outset of the tenancy the Landlord collected \$422.50 as a security deposit. The Tenant failed to pay rental arrears that accumulated from the spring of 2017. The Landlord claims a total unpaid rent of \$1,020.00 to and including September 2017. The tenancy agreement provides that the Tenant must pay a late and or NSF fees of \$25.00. The Landlord claims a total of \$200.00 for late fees.

Analysis

Section 26 of the Act provides that a tenant must pay the rent when and as provided under the tenancy agreement whether or not the landlord complies with this Act, the regulations or the tenancy agreement. Based on the undisputed evidence of the Landlord I find that the Landlord has substantiated that the Tenant owes rental arrears of **\$1,020.00**. I find that the Landlord is therefore entitled to this amount.

Section 7 of the RTB Regulations provides that a landlord may charge an NSF fee of no more than \$25.00 and this fee must be provided for in the tenancy agreement. Given the tenancy agreement provision for late fees and based on the undisputed evidence of the Landlord I find that the Tenant repeatedly paid rent late and that the Landlord is entitled to the claimed amount of **\$200.00**.

As the Landlord's application has been successful I find that the Landlord is entitled to recovery of the \$100.00 filing fee for a total entitlement of **\$1,320.00**. Deducting the security deposit plus zero interest of **\$422.50** leaves **\$897.50** owed to the Landlord.

Conclusion

I Order the Landlord to retain the security deposit plus interest of \$422.50 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act for the remaining amount of **\$897.50**. If necessary, this order may be filed in the Small Claims 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: December 05, 2017

Residential Tenancy Branch