



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, CNR, ERP, MT, RP

Introduction

The landlord and the tenant convened this hearing in response to applications.

The landlords' application is seeking orders as follows:

1. For an order of possession;
2. For a monetary order for unpaid rent; and
3. To recover the cost of filing the application.

The tenant's application is seeking orders as follows:

1. To be allowed more time to make an application to cancel a notice
2. t to end tenancy;
3. To cancel a 10 Day Notice to End Tenancy for Unpaid Rent; and
4. To have the landlord make emergency repairs and repairs to the rental unit.

Preliminary and procedural matters

Tenant's application

This matter was set for hearing by telephone conference call at 11:00 A.M on this date. The line remained open while the phone system was monitored for ten minutes and the only participant who called into the hearing during this time was the landlord. Therefore, as the tenant did not attend the hearing by 11:10 A.M, and the landlord appeared and was ready to proceed, I dismiss the tenant's application without leave to reapply.

Landlords' application

The landlord attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were served on the tenant in person on June 7, 2018. I find that the tenant has been duly served in accordance with the Act.

The landlord testified that the tenant vacated the premises on or about June 30, 2018 and an order of possession is not required.

Issue to be Decided

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

Background and Evidence

The tenancy began on September 15, 2017. Rent in the amount of \$795.00 was payable on the first of each month. The tenant did not pay the required security deposit. The tenancy ended on or about June 30, 2018.

The landlord testified that the parties were at a previous hearing on April 26, 2018 and the tenant agreed they were in rent arrears of \$2,890.00 which included April 2018 rent. The landlord stated that the failed to make the agreed upon payments. The file number of the settlement agreement is noted on the covering page of this decision.

The landlord seeks a monetary order for the agreed upon outstanding rent arrears of \$2,890.00, and for unpaid rent for May and June 2018, in the amount of \$1,590.00. The landlord stated that amount should be reduced by the payments received of \$225.00 from the tenant and \$450.00 received from the tenant's roommate.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, landlords have the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

Rules about payment and non-payment of rent are defined in Part 2 of the Act.

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.*

...

I accept the undisputed testimony of the landlord that the tenant failed to pay rent. I find the tenant breached the Act, when they failed to pay rent when due. In this case the tenant further failed to comply with the terms of the settlement agreement and failed to pay all subsequent rent owed. I find the landlords are entitled to recover unpaid rent in the amount of \$3,805.00. (\$4,480.00 - \$675=\$3,805.00)

I find that the landlords have established a total monetary claim of **\$3,905.00** comprised of the above described amount and the \$100.00 fee paid for this application. I grant the landlords an order under section 67 of the Act.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

Conclusion

The tenant failed to appear. The tenant's application is dismissed without leave to reapply.

The landlords are granted a monetary order for unpaid rent.

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 12, 2018

Residential Tenancy Branch