



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for unpaid rent and loss pursuant to section 67;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenants did not attend this hearing, although I waited until 1:45 p.m. in order to enable the tenants to connect with this teleconference hearing scheduled for 1:30 p.m. The landlord attended the hearing and was given a full opportunity to provide affirmed testimony and present evidence.

The landlord testified that on April 15, 2018, a process server personally served the tenant C.H. with a copy of the Application for Dispute Resolution and Notice of Hearing. A sworn affidavit of service was submitted as evidence.

Based on the above evidence, I am satisfied that the tenant C.H. was personally served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to section 89 of the Act. The hearing proceeded in the absence of the tenant.

Section 89 of the Act requires that for an application for dispute resolution, other than an application for an order of possession, if served personally, must be served to each co-tenant separately. There is insufficient evidence that tenant S.H. was also personally served. Therefore any monetary order arising out of this application will be issued naming only tenant C.H. as liable.

Issues

Is the landlord entitled to a monetary award for unpaid rent and loss?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The tenancy began on November 1, 2017 with a monthly rent of \$2100.00 payable on the 1st day of each month. The tenants vacated the rental unit on January 30, 2018.

The landlord is claiming the tenants failed to pay the January 2018 rent of \$2100.00. The landlord is also claiming an expense amount of \$49.87 incurred to hire a process server to locate and serve the application package to the tenant. The landlord testified that she had to hire a process server as the tenants failed to provide a forwarding address.

Analysis

Section 7 of the Act provides for an award for compensation for damage or loss as a result of a landlord or tenant not complying with this Act, the regulations or their tenancy agreement. Under this section, the party claiming the damage or loss must do whatever is reasonable to minimize the damage or loss.

Section 26 of the Act requires that 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 landlord's uncontested testimony and evidence and find that the tenants failed to pay rent for January 2018. The landlord is awarded \$2100.00 for unpaid rent.

I also accept the landlord's claim for the expense incurred to hire a process server. I find the landlord suffered this loss as a result of the tenants not providing a forwarding address at the end of the tenancy. The landlord is awarded \$49.87.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application for a total monetary award of \$2249.87.

Conclusion

Pursuant to section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of \$2249.87. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: October 18, 2018

Residential Tenancy Branch