



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, FF, CNR

Introduction

This hearing dealt with applications from both the landlord and the tenants under the *Residential Tenancy Act* (the *Act*). The landlord applied for:

- an order of possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to recover his/her/their/its filing fee for this application from the tenant pursuant to section 72.

The tenants' applied for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 46.

The landlord attended the hearing via conference call and provided undisputed testimony. The tenants did not attend. The landlord stated that the tenants were served with the notice of hearing package in person on July 17, 2019, the submitted documentary evidence in person on July 20, 2019 and the amendment to the application for dispute increasing the monetary claim to \$2,200.00 in person on August 17, 2019. The landlord confirmed that he was served with the tenants notice of hearing package and the submitted documentary evidence. The landlord stated that he was aware of the tenants' issues and was prepared to proceed.

I accept the undisputed testimony of the landlord and find that both parties have been properly served as per sections 88 and 89 of the *Act*. Although the tenants did not attend, I find that both parties are deemed sufficiently served as per section 90 of the *Act*.

At the outset, the landlord clarified that the tenants had vacated the rental unit on September 1, 2019 and that possession was no longer an issue. The landlord only wished to proceed on the monetary claims. As such, the landlord's application was

cancelled and the tenants' request is dismissed without leave to reapply as the tenants failed to attend to put forward their claim.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent and recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on March 15, 2018 on a fixed term tenancy ending on September 15, 2018 and then thereafter on a month-to-month basis as per the submitted copy of the signed tenancy agreement dated March 12, 2018. The monthly rent is \$1,100.00 payable on the 1st day of each month and a security deposit of \$500.00 was paid on March 15, 2018.

The landlord seeks a clarified monetary claim of \$2,300.00 which consists of:

| | |
|------------|--------------------------|
| \$1,100.00 | Unpaid Rent, July 2019 |
| \$1,100.00 | Unpaid Rent, August 2019 |
| \$100.00 | Filing Fee |

The landlord provided undisputed testimony that the tenants were served with a 10 Day Notice for Unpaid Rent (the 10 Day Notice) dated July 12, 2019 (on July 2, 2019, the landlord noted during the hearing that this was a typo error). The 10 Day Notice states that the tenants failed to pay rent of \$1,100.00 that was due on July 1, 2019 and provides for an effective end of tenancy date of July 12, 2019.

The landlord provided undisputed testimony that no rent has been paid since this 10 Day Notice was served as of the date of this scheduled hearing. The landlord seeks the unpaid rent of \$2,200.00 for July and August 2019 as the tenants had vacated the rental unit on September 1, 2019 without any rent payments.

Analysis

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.

In this case, I accept the undisputed evidence of the landlord and find that the tenants were served with the 10 Day Notice dated July 12, 2019 in person on July 2, 2019. I note that the tenants, however did apply for dispute, but failed to attend to put forward this claim. The tenants are deemed properly served with the 10 Day Notice dated July 12, 2019. I also accept the undisputed evidence of the landlord that the tenants failed to pay rent for July and August totalling, \$2,200.00. The landlord has established a claim for unpaid rent.

The landlord having been successful is also entitled to recovery of the \$100.00 filing fee.

Conclusion

The landlord is granted a monetary order for \$2,300.00.

This order must be served upon the tenants. Should the tenants fail to comply with the order, the 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: September 09, 2019

Residential Tenancy Branch