



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OPR MNR FF

Introduction

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

- an order of possession for unpaid rent and utilities pursuant to section 55;
- a monetary order for unpaid rent pursuant to section 67;
- authorization to recover the filing fee for this application pursuant to section 72.

This application was originally heard by way of a Direct Request Proceeding and on October 8, 2019 an interim decision was issued adjourning the application to be reconvened at a participatory hearing.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 9:50 a.m. to enable the tenant to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord's agents attended the hearing and were given a full opportunity to provide affirmed testimony, present evidence and make submissions.

The landlord's agent testified that on October 11, 2019, a copy of the Application for Dispute Resolution including the Notice of Hearing and Interim Decision was sent to the tenant by registered mail. The landlord provided a registered mail receipt with a tracking number in support of service.

Based on the above evidence, I am satisfied that the tenant was served with the Application for Dispute Resolution, Notice of Hearing and Interim Decision pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the tenant.

Preliminary Issue – Amendment to Landlord's Application

Paragraph 64(3)(c) of the Act allows me to amend an application for dispute resolution.

At the hearing, the landlord's agent testified that the tenant did not vacate the rental unit until sometime in mid-October 2019 and therefore asked to amend the claim to include outstanding rent in the amount of \$2350.00 that was payable on October 1, 2019. Although the tenant did not have prior notice of this claim, I find that the tenant should reasonably have known that the landlord would suffer this loss if the tenant neither paid rent nor vacated the rental unit. I therefore allowed the landlord's request for an amendment.

The landlord's agent testified that after learning the tenant had vacated the unit, they changed the locks on October 18, 2019. The landlord's application for an order of possession is therefore moot.

Issues

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

Background and Evidence

The tenancy began on September 1, 2019 with a monthly rent of \$2350.00 payable on the 1st day of each month.

The landlord's agent testified that on September 11, 2019, a person who works for the landlord's agent, personally served the tenant with the 10 Day Notice. A witnessed proof of service of the 10 Day Notice was provided with the application.

The landlord's amended monetary claim is for outstanding rent in the amount of \$4700.00. The landlord testified that this includes unpaid rent for September and October 2019. The landlord testified the tenant provided a cheque for September 2019 rent and the security deposit, but both these cheques bounced.

Analysis

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 evidence and claim for outstanding rent of \$4700.00.

As the landlord was successful in this application, the landlord is awarded the \$100.00 filing fee for a total monetary award of \$4800.00.

Conclusion

Pursuant to section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of \$4800.00. 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: November 07, 2019

Residential Tenancy Branch