



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KINGCOME INVESTMENTS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR-S

Introduction

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

- a monetary order for unpaid rent pursuant to section 67;
- authorization to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary order requested pursuant to section 38.

The landlord's agents (the landlord) attended the hearing via conference call and provided undisputed affirmed testimony. The tenant did not attend or submit any documentary evidence. The landlord stated that the tenant was served with the notice of hearing package via Canada Post Registered Mail on September 21, 2019 to the rental unit. The landlord submitted in support of this claim a copy of the Canada Post Customer Receipt Tracking label as confirmation. The landlord stated that the package was returned via Canada Post as "unclaimed". The landlord further clarified that they had considered the rental unit abandoned on October 2, 2019 and since that date took possession of it to re-rent.

I accept the undisputed affirmed evidence of the landlord and find that both parties have been sufficiently served as per sections 88 and 89 of the Act. Although the tenant's package was "unclaimed" and did not attend the hearing, I find that the tenant is deemed served as per section 90 of the Act.

The landlord stated that they did provide a copy a 10 Day Notice as well as 4 Notice(s) of Rent Increase, but a review of the Residential Tenancy Branch File shows no details or an "upload" of these documents on any date. The landlord provided undisputed

affirmed testimony of this evidence on the details of these documents during the hearing.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent and to retain all or part of the security deposit?

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.

The landlord seeks a monetary claim of \$939.00 which consists of unpaid rent for September 2019.

This tenancy began on June 1, 2013 on a month-to-month basis as per the submitted signed tenancy agreement dated May 30, 2013. The monthly rent was \$840.00 payable on the 1st day of each month. A security deposit of \$420.00 was paid on May 16, 2013.

During the hearing the landlord provided the following undisputed affirmed direct testimony concerning 4 Notice(s) of Rent Increase(s) and a 10 Day Notice dated September 2, 2019.

Notice of Rent Increase effective September 1, 2014 for \$855.00
Notice of Rent Increase effective September 1, 2015 for \$882.00
Notice of Rent Increase effective September 1, 2018 for \$917.00
Notice of Rent Increase effective September 1, 2019 for \$939.00

The landlord also stated that the tenant was served with a 10 Day Notice for Unpaid Rent (the 10 Day Notice) dated September 2, 2019 which was served upon the tenant by posting to the rental unit door on September 2, 2019. The 10 Day Notice stated that the tenant failed to pay rent of \$939.00 that was due on September 1, 2019.

The landlord stated that a text message was sent to the tenant on September 1, 2019 requesting that the tenant provide the monthly rent. The landlord then stated that a text message exchange took place in which the tenant responded saying that the rent would be paid within 12 days. The landlord further provided details of another text message

that the tenant could not pay the rent. The landlord speculated that the tenant had left the country and returned to China.

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, the onus is on the landlord to prove on the balance of probabilities that the tenant caused the damage and that it was beyond reasonable wear and tear that could be expected for a rental unit of this age.

I accept the undisputed affirmed evidence of the landlord and find that a claim for unpaid rent of \$939.00 has been established for September 2019 rent. The landlord provided direct testimony on the rent increase notice(s) that were issued during the tenancy raising the rent from the original \$840.00 to the last amount of \$939.00. I also find based upon the landlord's undisputed evidence that the tenant was properly served with the 10 Day Notice dated September 2, 2019 despite the Residential Tenancy Branch not receiving a copy. The landlord after serving the notice exchanged communications with the tenant via text message and later determined that the tenant had "abandoned" the rental unit on October 2, 2019 when the landlord took possession of the rental unit.

The landlord has established a total monetary claim of \$939.00. The landlord having been successful is also entitled to offset the claim against the \$420.00 security deposit currently held.

Conclusion

The landlord is granted a monetary order for \$519.00.

This order must be served upon the tenant. Should the tenant 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: January 20, 2020

Residential Tenancy Branch