



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Castera Properties Inc.
and [tenant name suppressed to protect
privacy]

DECISION

Dispute Codes OPR MNR FFL

Introduction

This hearing, adjourned from a Direct Request process in which a decision is made based solely on the written evidence submitted by the landlord, dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent or money owed pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:40 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. The landlord's agent, ND ("landlord"), attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlord and I were the only ones who had called into this teleconference for this hearing.

The landlord testified that the tenant had attended the building manager's office on February 18, 2020, and the tenant was personally served with a copy of the dispute resolution hearing package ("Application") and evidence. In accordance with sections 88 and 89 of the *Act*, I find that the tenant duly served with the Application and evidence package. The tenant did not submit any written evidence for this hearing.

The landlord indicated in the hearing that the tenant had moved out on January 5, 2020, and no longer requires an Order of Possession. Accordingly, this portion of the landlord's application is cancelled.

Although the landlord applied for a Monetary Order of \$2,065.00 in their initial claim, the tenant has failed to pay rent for the month of January 2020. Since the filing of this application, another \$1,190.00 in rent has become owing that was not included in the original application. I have accepted the landlord's request to amend their original application from \$2,065.00 to \$3,255.00 (plus \$100.00 filing fee) to reflect the additional unpaid rent that became owing by the time this hearing was convened.

Issues(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent or money owed?

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

Background and Evidence

The landlord testified regarding the following facts. This month-to-month tenancy began on March 1, 2017, with monthly rent currently set at \$1,565.00, payable on the first of every month. The tenant paid a security deposit in the amount of \$750.00, which the landlord still holds.

The tenant had moved out on January 5, 2020 after the tenant was served with a 10 Day Notice for Unpaid Rent on December 4, 2019, which was posted on his door.

The landlord testified that the tenant owes the following in unpaid rent plus an NSF fee.

Item	Amount
Unpaid Rent for November 2019	\$100.00
Unpaid Rent for December 2019 & NSF Fee	1,590.00
Unpaid Rent for January 2020	1,565.00
Total Monetary Order Requested	\$3,255.00

Analysis

Section 26 of the Act, in part, states as follows:

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.

The landlord provided undisputed evidence at this hearing, as the tenant did not attend. I accept the landlord's testimony that the tenant did not pay rent and an NSF fee in the amount of \$3,255.00. Therefore, I find that the landlord is entitled to a monetary order in the amount of \$3,255.00.

The landlord continues to hold the tenant's security deposit of \$750.00. In accordance with the offsetting provisions of section 72 of the Act, I order the landlord to retain the tenant's security deposit of \$750.00 in partial satisfaction of their monetary claim.

As the landlord was successful in their application, I find that the landlord is entitled to recover the filing fee for this application.

Conclusion

The landlord cancelled their application for an Order of Possession as the tenant had moved out of the rental unit.

I issue a \$2,605.00 Monetary Order in favour of the landlord, which allows the landlord to recover unpaid rent, the filing fee for this application, and also allows the landlord to retain the tenant's security deposit in partial satisfaction of the monetary claim.

Item	Amount
Unpaid Rent for November 2019	\$100.00
Unpaid Rent for December 2019 & NSF Fee	1,590.00
Unpaid Rent for January 2020	1,565.00
Filing Fee	100.00
Less Security Deposit Held	-750.00

Total Monetary Order	\$2,605.00
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The tenant must be served with this Order as soon as possible. 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: March 3, 2020

Residential Tenancy Branch