



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPL, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the landlord pursuant to sections 55, 67, 38 and 72 of the *Residential Tenancy Act*. The landlord applied for an order of possession pursuant to notice to end tenancy for landlord's use of property and for a monetary order for unpaid rent, unpaid utilities and the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of the monetary claim.

The notice of hearing was served on the tenant on August 19, 2020, by registered mail. The landlord provided a tracking number. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

At the start of the hearing the landlord informed me that the tenant had moved out on August 30, 2020. Since the tenant has moved out, the landlord withdrew his application for an order of possession. During the hearing, the landlord requested me to dismiss the portion of his application that deals with the security deposit and allow him to make application for his claims if any, against the deposit after the tenant provides him with a forwarding address. Since the tenant moved out without giving the landlord a forwarding address in writing, I allowed the landlord's request and have dismissed this portion of his application with leave to reapply.

Accordingly, this hearing only dealt with the landlord's monetary claim for unpaid rent, unpaid utilities and the filing fee.

Issues to be decided

Is the landlord entitled to a monetary order to recover unpaid rent, unpaid utilities and the filing fee?

Background and Evidence

The landlord testified that the tenancy started on October 01, 2019. The monthly rent was \$1,300.00 due in advance on the first of each month and did not include utilities. On July 22, 2020, the landlord served the tenant with a two-month notice to end tenancy for landlord's use of property, with an effective date of October 01, 2020. The tenant did not dispute the notice.

The landlord testified that the rental unit was sold on September 11, 2020 and that the tenant moved out on August 30, 2020 without providing the landlord with at least 10 days notice. The landlord testified that the tenant failed to pay rent for April, July and August 2020 and failed to pay utilities. On July 22, 2020, the landlord served the tenant with a written demand for unpaid utilities.

Analysis

Based on the undisputed sworn testimony of the landlord and in the absence of evidence to the contrary, I accept the landlord's testimony in respect of her claim. I find that the tenant owes rent for April and July 2020 in the total amount of \$2,600.00.

Tenant may end tenancy early following notice under certain sections

50 (1) If a landlord gives a tenant notice to end a periodic tenancy under section 49 [*landlord's use of property*] or 49.1 [*landlord's notice: tenant ceases to qualify*], the tenant may end the tenancy early by

- (a) giving the landlord at least 10 days' written notice to end the tenancy on a date that is earlier than the effective date of the landlord's notice, and
- (b) paying the landlord, on the date the tenant's notice is given, the proportion of the rent due to the effective date of the tenant's notice, unless subsection (2) applies.

(2) If the tenant paid rent before giving a notice under subsection (1), on receiving the tenant's notice, the landlord must refund any rent paid for a period after the effective date of the tenant's notice.

(3) A notice under this section does not affect the tenant's right to compensation under section 51 [*tenant's compensation: section 49 notice*].

Based on the above, the tenant moved out without providing 10 days notice to end the tenancy. The tenant moved out on August 30, 2020 and therefore must pay rent until September 09, 2020. The tenant is also entitled to the last month of rent-free stay pursuant to a s.49 notice and therefore the tenant owes prorated rent for August 01 to August 09, 2020 in the amount of \$377.42 and the rent-free period will be August 10, 2020 to September 09, 2020.

Based on the above calculations the tenant owes rent in the total amount of \$2,977.42.

The landlord filed proof from the local city hall that utilities in the amount of 1,530.99 were outstanding as of August 12, 2020. The tenant was provided with a written demand to pay outstanding utilities on July 22, 2020. I find that the tenant owes the landlord outstanding utilities in the amount of his claim.

The landlord has proven his case and is therefore also entitled to the recovery of the filing fee in the amount of \$100.00.

Overall, the landlord has established a claim for unpaid rent (\$2,977.42), unpaid utilities (\$1,530.99) and the filing fee (\$100.00) for a total of \$4,608.41. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for this amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord a monetary order for **\$4,608.41**.

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 01, 2020

Residential Tenancy Branch