



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

Decision

Dispute Codes:

OPR, O, MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an Order of Possession, Monetary Order for unpaid rent, storage, NSF, late payment charge, and recovery of the filing fee.

Service of the hearing documents was done in accordance with section 89 of the *Act*, sent via registered mail on March 13, 2009. The tenant was deemed to be served the hearing documents on March 18, 2009, the fifth day after they were mailed.

Representatives for the landlord appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally, in written and documentary form, and make submissions to me.

The tenant did not appear.

Issue(s) to be Decided

The issues to be decided based on the testimony and the evidence are:

- Whether the landlord is entitled to an Order of Possession under Section 55 of the *Act* for cause
- Whether the landlord is entitled to a Monetary Order under section 67 of the *Act* for unpaid rent, storage fees, NSF fees, and late payment fees
- Whether the landlord is entitled to a Monetary Order under section 72(1) of the *Residential Tenancy Act* for recovery of the filing fee.

Background and Evidence

The month to month tenancy began September 1, 1997. Rent is payable on the first of each month at \$777.00 plus \$20.00 storage fee. The tenant paid a security deposit of \$312.00 on April 16, 1996 when he began his tenancy in a different rental unit in the building.

The resident manager testified that a 10 Day Notice to End Tenancy was posted on the tenant's door on March 2, 2009 after the February rent payment was returned NSF, and there was no rent payment for March 1, 2009.

The landlord entered into evidence, copies of the Canada Post receipts as proof that the tenant was sent the hearing documents on March 13, 2009.

The resident manager advised that the tenant has made three payments towards the rental arrears as follows: March 13, 2009, \$830.00; March 18, 2009, \$780.00; March 24, 2009, \$201.00, bringing his account current and reinstating the tenancy agreement.

The resident manager stated that the tenant now has a credit on his rental account of \$142.00 which would amount to \$92.00 if the landlord was granted a monetary order to deduct the \$50.00 filing fee from this credit on the tenant's account.

The landlord's agent testified that they are withdrawing their request for an Order of Possession and their monetary claim for unpaid rent, storage, NSF and late payment fees. The landlord is still seeking reimbursement of the filing fee.

Analysis

Based on the Agent's testimony, the tenant has paid the arrears in full, and the landlord and tenant have come to an agreement to reinstate the tenancy.

The landlord is still seeking reimbursement of the filing fee of \$50.00.

Conclusion

The Agent for the landlord has withdrawn their application for an Order of Possession and the monetary claim for unpaid rent, storage fees, NSF fee, and late payment fees.

I find that the cost of the filing fee should be borne by the tenant pursuant to section 82(1) of the *Residential Tenancy Act*.

March 24, 2009
Date of Decision

Dispute Resolution Officer