



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to obtain an Order of Possession, a Monetary Order for unpaid rent and for a loss of revenue, an Order to keep all or part of the security deposit and to recover the cost of the filing fee. At the outset of the hearing the landlords' agent confirmed that the tenants have moved out and they withdraw their application for an Order of Possession and a Monetary Order for loss of revenue.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on June 17, 2009. Mail receipt numbers were provided in the landlord's documentary evidence. The tenant collected these documents on June 18, 2009.

The landlords agent appeared, gave affirmed testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form.

There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

- Are there arrears of rent and if so, how much?
- Is the landlord entitled to keep all or part of the security deposit and interest?
- Whether the landlord is entitled to a Monetary Order to recover the unpaid rent and filing fee?



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Background and Evidence

This tenancy started on February 01, 2009 and ended on June 30, 2009. Rent for this unit is \$1,150.00 per month due on the 1st of each month. The tenant paid a security deposit of \$575.00 on January 19, 2009.

The tenant did not pay rent for June, 2009 of \$1,150.00. The landlord issued a 10 Day Notice to End the Tenancy for unpaid rent on June 02, 2009. This was posted on the tenants' day and placed in their mail box. This is deemed to have been served three days after posting. The tenant had five days to either pay the outstanding rent or apply for Dispute Resolution or the tenancy would end on June 12, 2009. The tenant did not pay the outstanding rent or dispute the Notice. The landlord applied for Dispute Resolution on June 16, 2009. Since that time the tenant has not paid rent for July, 2009 of \$1,150.00. The landlord is seeking a Monetary Order for rent arrears for June and July, 2009 and a late fee of \$25.00 for each of these months as included in the tenancy agreement.

The landlords' agent has withdrawn her application for a loss of revenue as the rental unit was re-rented on July 20, 2009.

Analysis

The tenant did not appear at the hearing, despite having been sent a Notice of the hearing; therefore, in the absence of any evidence from the tenant, I find that the landlord is entitled to recover rent arrears for June and July, 2009 of \$2,300.00. The landlord is also entitled to claim \$50.00 for late fees for these two months. **I order** the landlord pursuant to s. 38(4) of the Act to keep the tenant's security deposit in partial payment of the rent arrears.

As the landlord has been successful in this matter, they are also entitled to recover the \$50.00 filing fee for this proceeding pursuant to s. 72(1) of the Act.

The landlord will receive a monetary order for the balance owing as follows:



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Outstanding rent for June and July, 2009	\$2,300.00
Late fees for June and July, 2009	\$50.00
Less security deposit	(-\$575.00)
Total amount due to the landlord	\$1,825.00

Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$1,825.00**. The order must be served on the tenant and is enforceable through the Provincial Court 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: July 23, 2009.

Dispute Resolution Officer