Dispute Resolution Services

DECISION

Dispute Codes   OPR, MNR, MNSD, MNDC, FF

Introduction

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

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement 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; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 1:40 p.m. in order to enable him to connect with this hearing. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

The landlord testified that she posted a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenant's door at 2:14 p.m. on October 2, 2011. She provided a written Proof of Service form in which a witness attested to viewing the landlord post the 10 Day Notice on the tenant's door that day. The landlord also testified that she handed her dispute resolution hearing package to the tenant at 2:46 p.m. on October 17, 2011. She entered into written evidence a statement from a witness attesting to the landlord's handing of this package to the tenant that day. I am satisfied that the landlord has served these documents to the tenant in accordance with the *Act*.

At the commencement of this hearing, the landlord testified that the tenant has paid all of his outstanding rent, including the rent for November 2011. She said that she was no longer seeking an end to this tenancy, an Order of Possession, or a monetary award for unpaid rent. She withdrew her applications for each of these items and said that the only remaining portion of her application that she wanted considered at this hearing was her application to recover the $50.00 filing fee for her application.

Issues(s) to be Decided
Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence
This tenancy commenced as a one-year fixed term tenancy on January 1, 2010. At the expiration of the initial term, this converted to a periodic tenancy. Monthly rent is set at $900.00, payable in advance on the first of each month. The landlord continues to hold the tenant's $450.00 security deposit and $450.00 pet damage deposit, paid on or about January 1, 2010.

The landlord issued the 10 Day Notice when the tenant owed $900.00 for October 2011 rent on October 2, 2011. Although the tenant subsequently paid a portion of the outstanding rent on October 8, 2011, he did not pay all of the amount then owing until after he received the landlord's dispute resolution hearing package.

Analysis
Based on the undisputed evidence presented by the landlord, I am satisfied that the landlord is entitled to recover her $50.00 filing fee for her application from the tenant.

To do so, I allow the landlord retain $50.00 from the tenant's $450.00 security deposit.

Conclusion
I issue a monetary award in the landlord's favour in the amount of $50.00 to enable the landlord to recover her filing fee for this application from the tenant. To implement this award, I order the landlord to retain $50.00 from the tenant's security deposit. The current value of the tenant's security deposit is now set at $400.00.

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: November 09, 2011

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Residential Tenancy Branch