Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes   FF, MNR, OPR

Introduction

This is an application for an Order of Possession, and a request for a Monetary Order for outstanding rent, late fees, and the filing fee.

A substantial amount of documentary evidence and written arguments has been submitted prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the applicant the opportunity to testify at the hearing.

The applicant testified that the respondent(s) were served with notice of the hearing by personal service on July 18, 2014 however the respondent(s) did not join the conference call that was set up for the hearing, and I therefore proceeded with the hearing in the respondents absence.

All testimony was taken under affirmation.

Issue(s) to be Decided

The applicant had been requesting an Order of Possession, however the respondent/tenants vacated the rental unit on July 29, 2014 and therefore the landlord is no longer requesting an Order of Possession.

The remaining issue therefore is whether or not the landlord has established a monetary claim against the tenants, and if so in what amount.

Background and Evidence

The landlord testified that:

- This tenancy began on November 1, 2013 with the monthly rent of $1500.00.

- During the tenancy the tenants fell substantially behind in the rent and subsequently vacated the rental unit on July 29, 2014 after receiving a Notice to End Tenancy.

- At the end of the tenancy the tenants had a total of $6700.00 in rent outstanding.

- The tenants also issued five NSF cheques and had agreed in the tenancy agreement to pay $25.00 for each NSF cheque.

- The applicant is therefore requesting a Monetary Order for the outstanding rent, late fees, and the $100.00 filing fee for a total request of $6925.00.

Analysis

This tenancy ran from November 2013 through July 2014 at a monthly rent of $1500.00 and therefore the tenants should have paid total rent over that term of $13,500.00.

The landlord has provided a rent ledger that shows that the actual amount paid was $7250.00 for difference of $6250.00.

The reason the amount claimed by the landlord is higher, is because the landlord has included the tenant's failure to pay $450.00 of the security deposit, however since the deposit would have to be returned at the end of the tenancy anyway, unless claim for damages, this cannot be added on to the outstanding rent.

The applicant has also shown that there were five NSF charges of $25.00 and I allow that portion of the claim.

I also allow the request for recovery of the filing fee.

Therefore the total amount I will allow is as follows:

Total rent outstanding	$6250.00
Late fees 5 X $25.00	$125.00
Filing fee	$100.00
Total	$6475.00

Conclusion

I have allowed a total of $6475.00 of the landlords claim, and the remainder of the claim is dismissed without leave to reapply.

I have issued a Monetary Order for the respondents to pay $6475.00 to the applicant.

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: September 15, 2014

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Residential Tenancy Branch