



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MND, MNDC, MNR, MNSD, CNC, CNR, FF

Introduction

This hearing was convened to address a claim by the landlord for an order of possession and a monetary order and a claim by the tenant for orders setting aside notices to end this tenancy. The landlord testified that she served the tenant with the application for dispute resolution and notice of hearing on August 14 by registered mail. The mail was later returned to her as having been rejected by the recipient. The tenant cannot avoid service by refusing registered mail and I found that he had been properly served with notice of the claim against him and the hearing proceeded in his absence.

The landlord advised that the tenant vacated the rental unit in August. I therefore consider his claim for orders setting aside notices to end the tenancy to be withdrawn as well as the landlord's application for an order of possession.

The landlord submitted supplementary evidence on September 25 and testified that she served the tenant with this evidence by mailing it to the rental unit. Section 88 of the Act provides that documents to be served on a tenant may be mailed either to the address at which the tenant resides or to the forwarding address provided by the tenant. In this case, the tenant did not reside at the rental unit at the time the documents were mailed. I found that the landlord had not properly served the documents on the tenant and therefore I declined to consider the supplementary evidence. As the details of the landlord's monetary claim were outlined in the supplementary evidence, I was unable to hear the claims for any monetary issues other than August rent as I found that recovery of rental arrears for August was the only monetary claim of which the tenant had notice. The balance of the landlord's monetary claims are dismissed with leave to reapply.

Issue to be Decided

Is the landlord entitled recover unpaid rent for August?

Background and Evidence

The landlord's undisputed evidence is as follows. The tenancy began on February 1, 2014 at which time the tenant paid a \$750.00 security deposit. The tenant was obligated to pay \$1,500.00 per month in rent in advance on the first day of each month. The tenant failed to pay rent for the month of August 2014.

Analysis

I accept the landlord's undisputed testimony and I find that the tenant failed to fulfill his contractual obligation to pay rent in the month of August. I find that the landlord is entitled to recover the rental arrears and I award the landlord \$1,500.00. As the landlord has been successful in her application, I find she should recover the filing fee paid to bring her claim and I award her \$50.00.

Conclusion

The landlord has been awarded \$1,550.00. I order the landlord to retain the \$750.00 security deposit in partial satisfaction of the claim and I grant her a monetary order under section 67 for the balance of \$800.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

The landlord's claim for further income loss and damages is dismissed with leave to reapply.

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 09, 2014

Residential Tenancy Branch

