



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OPR MNR 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 loss pursuant to section 67;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 9:12 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 9:00 a.m. The landlord attended the hearing and was given a full opportunity to provide sworn testimony and present evidence.

The landlord testified that on February 8, 2017, a copy of the Application for Dispute Resolution and Notice of Hearing was sent to the tenant by registered mail. The landlord provided a registered mail tracking number in support of service.

Based on the above evidence, I am satisfied that the tenant was deemed served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the tenant.

The landlord testified that the tenant vacated the rental unit on February 28, 2017; accordingly, the landlord withdrew his application for an order of possession.

Issues

Is the landlord entitled to a monetary award for unpaid rent and/or loss?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The tenancy began on November 21, 2015 with a monthly rent of \$900.00 payable on the 1st day of each month. The tenant paid a security deposit of \$450.00 and a pet deposit of \$150.00 at the start of the tenancy which the landlord continues to hold. Although the tenancy agreement states the pet deposit was to be \$250.00, the landlord testified that the tenant only paid \$150.00 for the pet deposit.

The landlord's claim is for outstanding rent in the amount of \$1079.18. The landlord testified that this includes unpaid rent in the amount of \$179.18 for the month of January 2017 and \$900.00 for the month of February 2017. The landlord testified that after he served the tenant with the 10 Day Notice for unpaid January rent, the tenant made a payment of \$420.82 plus the landlord agreed to credit the tenant an amount of \$300.00 in lieu of rent for repair expenses incurred by the tenant, leaving a balance of \$179.18. The landlord testified that the tenant failed to pay any rent for the month of February 2017.

Analysis

Section 26 of the Act requires that a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

I accept the landlord's uncontested evidence and find that the tenant was obligated to pay monthly rent in the amount of \$900.00 but failed to pay rent in full as per above. I accept the landlord's claim for outstanding rent of \$1079.18.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application for a total monetary award of \$1179.18.

The landlord continues to hold a security deposit and pet deposit in total of \$600.00. Although the landlord's application does not seek to retain the security deposit, using the offsetting provisions of section 72 of the Act, I allow the landlord to retain the security deposit in partial satisfaction of the monetary award.

Therefore, I find that the landlord is entitled to a Monetary Order in the amount of \$579.18.

Conclusion

Pursuant to section 67 of the *Act*, I grant the landlord a Monetary Order in the amount of \$579.18. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced 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: March 03, 2017

Residential Tenancy Branch

