



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Canada One Leasing
Corporation and [tenant name suppressed to protect
privacy]

DECISION

Dispute Codes

MNR MNSD FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The participatory hearing was held, by teleconference, on March 19, 2020. The Landlord applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the "Act").

The Landlord (agent of) attended the hearing. The Tenant did not attend the hearing. The Landlord stated that she sent the Tenant each a copy of the Notice of Hearing and evidence by registered mail to the forwarding address provided to her by the Tenant. The Landlord stated she received the Tenant's forwarding address by email on October 21, 2019. Registered mail tracking information was provided showing she mailed the package on November 13, 2019. Pursuant to section 89 and 90 of the Act, I find the Tenant is deemed to have received this package on November 18, 2019, the fifth day after the mailing.

The Landlord was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Is the Landlord entitled to a monetary order for rent or for damage or loss under the Act?
- Is the Landlord entitled to retain all or a portion of the Tenant's security deposit in partial satisfaction of the monetary order requested?
- Is the Landlord entitled to recover the cost of the filing fee?

Background and Evidence

As per the Tenancy Agreement provided into evidence, monthly rent was \$1,150.00 and was due on the first of the month. The Landlord also holds a security deposit in the amount of \$575.00.

The Landlord stated that the Tenant did not pay any rent for October 2019, and moved out part way through the month, around October 20, 2019. The Landlord stated that they are seeking to recover October rent, and nothing further, as they were successful in find a new tenancy for November 2019.

Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim.

In this instance, the burden of proof is on the Landlord to prove the existence of the damage/loss and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Tenants. Once that has been established, the Landlords must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Landlord did everything possible to minimize the damage or losses that were incurred.

Based on the unchallenged testimony and documentary evidence, and on a balance of probabilities, I find as follows:

Section 26 of the *Act* confirms that a Tenant must pay rent when it is due unless the Tenant has a right under the *Act* to deduct all or a portion of rent (security deposit overpayment, emergency repairs paid for by the Tenant, illegal rent increases, or another Order by an Arbitrator).

With respect to the Landlord's request for a Monetary Order for unpaid rent, I find there is sufficient evidence from the Landlord's undisputed documentary evidence and testimony before me to demonstrate that the Tenant owes and has failed to pay \$1,150.00 in rent for October 2019.

Section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. As the Landlord was substantially successful with this application, I order the Tenant to repay the \$100.00 fee that the Landlord paid to make

application for dispute resolution. Also, I authorize the Landlord to retain the security deposit to offset the money owed.

In summary, I grant the monetary order based on the following:

| Claim | Amount |
|---|-----------------|
| Unpaid rent: October 2019 | \$1,150.00 |
| Filing Fee | \$100.00 |
| Less: | |
| Security Deposit currently held by Landlord | (\$575.00) |
| TOTAL: | \$675.00 |

Conclusion

The Landlord is granted a monetary order pursuant to Section 67 in the amount of **\$675.00**. This order must be served on the Tenant. If the Tenant fails to comply with this order the Landlord may file the order in the Provincial Court (Small Claims) and be 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 20, 2020

Residential Tenancy Branch