



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: MNR, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order for unpaid rent and utilities, compensation for loss of rental income, an order to retain the security deposit in partial satisfaction of the claim, and recovery of the filing fee. The landlord participated in the hearing and gave affirmed testimony. Despite being served in person with the application for dispute resolution and notice of hearing, neither tenant participated in the hearing. As the tenants have vacated the unit the landlord withdrew his earlier application for an order of possession.

Issue to be Decided

- Whether the landlord is entitled to a monetary order under the *Act*

Background and Evidence

Pursuant to a written residential tenancy agreement the term of tenancy was from December 1, 2006 to November 30, 2007. Thereafter, tenancy continued on a month-to-month basis. Rent in the amount of \$1,350.00 was payable in advance on the first day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenants in the amount of \$675.00.

The tenants failed to pay rent for the months of October and November 2008. The landlord submitted into evidence a copy of the 10 day notice to end tenancy dated November 3, 2008, which was served by deposit into the tenants' mailbox on the same date. Subsequently, the tenants vacated the unit on or around November 30, 2008 and left no forwarding address.

The landlord seeks compensation for unpaid rent for October and November and loss of rental income for December 2008, in addition to unpaid utilities.

The landlord stated that he served the application for dispute resolution and notice of hearing in person to the tenants on November 18, 2008.

Analysis

Based on the documentary evidence and undisputed testimony of the landlord, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent. The tenants did not pay the outstanding rent within 5 days of receiving the notice and did not apply to dispute the notice. The tenants are therefore conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the notice. Based on the above facts I find that the landlord is entitled to an order of possession.

As for the monetary order, I find the landlord has established a claim for \$4,526.00, which is comprised of unpaid rent for October (\$1,350.00), unpaid rent for November (\$1,350.00), compensation for loss of rental income for December (\$1,350.00), and unpaid utilities for October and November in the total amount of \$476.00. The landlord is also entitled to recovery of the \$50.00 filing fee (total claim: \$4,576.00). I order that the landlord retain the security deposit of \$675.00 and interest of \$20.09 in partial satisfaction of the claim and I grant the landlord a monetary order under section 67 of the *Act* for the balance due of \$3,880.91.

Conclusion

I hereby grant the landlord a monetary order under section 67 of the *Act* for **\$3,880.91**. This order must be served on the tenants and may be filed in the Small Claims Court and enforced as an order of that Court.

DATE: December 9, 2008

Dispute Resolution Officer

