



Dispute Resolution Services

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

Decision

Dispute Codes: MNR, MNDC, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order for unpaid rent, 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 on November 21, 2008, the tenant did not participate in the hearing. As the tenant has now 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

The month-to-month tenancy began on August 1, 2008. Rent in the amount of \$750.00 is payable in advance on the first day of each month. On July 27, 2008 the landlord collected a security deposit from the tenant in the amount of \$400.00. The tenant paid only \$440.00 towards rent for the month of October 2008. The tenant failed to pay any rent whatsoever for the month of November 2008. On November 7, 2008 the landlord served the tenant with a 10 day notice to end tenancy. The tenant further failed to pay rent for the month of December 2008 and vacated the unit on December 3, 2008.

The landlord submitted into evidence a copy of the 10 day notice to end tenancy dated November 7, 2008 which was served by posting on the tenant's door.

Analysis

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

As for the monetary order, I find the landlord has established a claim for \$1,810.00, which is comprised of unpaid rent for October (\$310.00), unpaid rent for November (\$750.00) and compensation for loss of rent for December 2008 (\$750.00). The landlord is also entitled to recovery of the \$50.00 filing fee (total claim: \$1,860.00). I order that the landlord retain the security deposit of \$400.00 and interest of \$2.25 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 \$1,457.75.

Conclusion

I hereby grant the landlord a monetary order under section 67 of the *Act* for **\$1,457.75**. This order must be served on the tenant and may be filed in the Small Claims Court and enforced as an order of that Court.

DATE: December 10, 2008

Dispute Resolution Officer

