

Dispute Resolution Services

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

Decision

Dispute Codes: MNR OPR FF

Introduction

This hearing dealt with an application by the landlord for an order of possession due to unpaid rent, a monetary order to recover rental arrears and inclusive of recovery of the filing fee associated with this application. Despite having been served with the application for dispute resolution and notice of hearing by personal service on November 26, 2008, the tenant did not participate in the conference call hearing.

Issue(s) to be Decided

Is the notice to end tenancy valid?

Is the landlord entitled to an order of possession?

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

Rent in the amount of \$750 is payable in advance on the first day of each month. The landlord did not collect a security deposit from the tenants at the onset of the tenancy. The tenant failed to pay all the rent in the month of November 2008, paying only \$375, and on November 12, 2008 the landlord served the tenant with a notice to end tenancy for non-payment of rent. On November 26, 2008 the landlord personally served the tenants with Notice for Dispute Resolution. The tenants submitted their keys and left the rental unit on the evening of November 29, 2008 without proper notice to the landlord. The tenant did not pay December's rent.

Analysis

Based on the landlord's testimony I find that the tenant was served with a notice to end tenancy for non-payment of rent and I find the notice to be valid.

The tenant has not paid the outstanding rent and has not applied for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice.

Based on the information that the tenants submitted the keys and left on November 29, 2008 the landlord agreed he is not pursuing an order of possession. As for the monetary order, I find the landlord has established a claim for \$375 in unpaid rent for November. I further find the landlord has a responsibility to mitigate revenue losses, and on that basis I am granting the landlord one half (1/2) month rent for December in the amount of \$375, with leave to reapply for the remainder of the month, if required. In this matter I find the landlord is entitled to recovery of the \$50.00 filing fee, for a total entitlement of \$800.

Conclusion

I dismiss the portion of the landlord's application for an order of possession.

I grant the landlord an order under section 67 for a total of **\$800**. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated: December 15, 2008