

Dispute Resolution Services

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

Decision

Dispute Codes: MNDC MNR MNSD 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, with an order to retain the security deposit in partial satisfaction of the monetary claim. Despite having been served with the application for dispute resolution and notice of hearing on November 14, 2008, the tenant did not participate in the conference call hearing set for today.

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

The tenancy began on January 1, 2005. Rent in the amount of \$1100 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$550. The tenant failed to pay rent in the month of November 2008 and on November 4, 2008 the landlord served the tenant with a 10 day notice to end tenancy for non-payment of rent. The landlord's testimony was that the tenant vacated the rental unit on November 22, 2008.

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 for November 2008 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 above facts I find that the application for an order of possession can be dismissed as the tenant vacated the rental unit. The landlord's testimony is that the application for loss of revenue for December is withdrawn, and also dismissed. I find the landlord is entitled to a monetary order as the landlord has established a claim for \$1100 in unpaid rent for November 2008. The landlord is also entitled to recovery of the \$50.00 filing fee for a total entitlement claim of **\$1150**.

Conclusion

I order that the landlord retain the deposit and interest of \$568.81 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$581.19**. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated: December 3, 2008