



Dispute Resolution Services

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

Decision

Dispute Codes: MNR MNSD OPR FF

Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, to retain all or part of the security deposit, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution. At the hearing the Agent for the Landlord withdrew the application for an Order of Possession, as the Tenant has vacated the rental unit.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to a monetary Order for unpaid rent from December of 2008 and January of 2009; to keep all or part of the security deposit; and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The Agent for the Landlord and the Tenant agree that this tenancy began on June 18, 2008; that the Tenant was required to pay monthly rent of \$900.00 plus forty percent of the utilities; and that the Tenant paid a security deposit of \$450.00 on June 19, 2008.

The Agent for the Landlord and the Tenant agree that the Tenant was served a ten (10) day Notice to End Tenancy for non-payment of rent, which had an effective date of December 28, 2008 on December 18, 2008. The parties agree that the Tenant vacated the rental unit on December 20, 2008.

The Agent for the Landlord and the Tenant agree that the Tenant still owes \$900.00 for rent from December plus \$153.36 in utilities.

The Landlord is seeking compensation for loss of revenue from January of 2009, in the amount of \$900.00. The Agent for the Landlord stated that no attempts were made to find a new tenant for January 01, 2009, as they were uncertain that the Tenant would vacate and because the rental unit required cleaning.

Analysis

The evidence shows that the Tenant owes \$1,053.36 in unpaid rent and utilities from December of 2008, and I find that the Landlord is entitled to compensation in that amount.

Section 7(2) of the Act requires landlords to take reasonable steps to minimize their damages or losses when they are claiming compensation from a tenant for damages or losses. I find that the Landlord is not entitled to loss of revenue from the month of January as it did not make reasonable efforts to find new tenants for unit prior to

January 01, 2009. Specifically, I find that the Landlord did not advertise the rental unit prior to January 01, 2009, which would have been reasonable if they wished to find a new tenant for the month of January.

I find that the Landlords application has merit, and I find that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

I find that the Landlord is entitled to retain the Tenant's security deposit plus interest, in the amount of \$453.61, in partial satisfaction of the monetary claim.

Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$1,103.36, which is comprised on \$1,053.36 in unpaid rent and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. The Landlord will be retaining the Tenant's security deposit plus interest, in the amount of \$453.61, in partial satisfaction of the monetary claim.

Based on these determinations I grant the Landlord a monetary Order for the balance of \$649.75. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Dated: January 20, 2009