



Dispute Resolution Services

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

Decision

Dispute Codes: MND, MNR, MNDC, MNSD, FF

Introduction

This hearing dealt with the landlord's application for a monetary order for unpaid rent, compensation for loss of rent, compensation associated with cleaning the unit / replacement of damaged or missing furnishings, retention of the security deposit in partial satisfaction of the claim, and recovery of the filing fee for this application. The landlord's agent participated in the hearing and gave affirmed testimony. Despite being served by registered mail with the application for dispute resolution and the notice of hearing, the tenant did not participate in the hearing.

Issues 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 for a furnished townhouse, the term of the tenancy was from July 15, 2008 to June 30, 2009. Monthly rent in the amount of \$2,400.00 was payable in advance. Near the commencement of tenancy the landlord collected a security deposit from the tenant in the total amount of \$1,500.00. The tenant paid rent of \$2,400.00 for the period from July 15 to August 15, 2008. However, the tenant's rent cheques for subsequent periods failed to clear or were not provided. On September 16, 2008 the landlord served the tenant with a notice to end tenancy. The tenant vacated the unit without notice on or around September 29, 2008 and, in spite of extensive cleaning and advertising undertaken by the landlord, new renters have not yet been found.

The landlord submitted into evidence a copy of the 10 day notice to end tenancy dated September 16, 2008 which was served in person on an individual residing with the tenant.

After entry into the unit the landlord found furnishings either damaged or missing.

The landlord provided the tracking number for registered mailing of the application for dispute resolution and notice of hearing, as well as an itemized list and cost breakdown of furnishings needing to be replaced, in addition to other costs for cleaning, repair, advertising and so on.

Analysis

Based on the documentary evidence and undisputed testimony of the landlord's agent, 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 \$15,475.64. This amount is comprised of unpaid rent for the period August 16 to September 15 (\$2,400.00) and September 16 to October 15 (\$2,400.00); loss of rental income for the period October 16 to 31 (\$1,200.00), the month of November (\$2,400.00) and the month of December (\$2,400.00), replacement of damaged or missing furnishings (\$3,502.64), cleaning (\$583.00), cost for limited area carpet replacement (\$490.00) and advertising (\$100.00). The landlord is also entitled to recovery of the \$100.00 filing fee, bringing the total amount of the claim to \$15,575.64.

The landlord's agent clarified his intention that the application for a monetary order should have included a request that the landlord be permitted to retain the security deposit in partial satisfaction of the claim. Accordingly, I order that the landlord retain

the security deposit of \$1,500.00 and interest of \$10.45, and I grant the landlord a monetary order for the balance owing of \$14,065.19 (\$15,575.64 - \$1,510.45)

There is no statutory provision for the award of compensation for costs associated with the landlord's travel costs and car rental and I therefore dismiss those components of the landlord's claim.

Conclusion

I hereby grant the landlord a monetary order under section 67 of the *Act* for **\$14,065.19**. 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: January 2, 2009

Dispute Resolution Officer