



Dispute Resolution Services

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

Decision

Dispute Codes: MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's application for a monetary order for unpaid rent, retention of the security deposit in partial satisfaction of the claim, and recovery of the filing fee. The agent for the landlord participated in the hearing and gave affirmed testimony. Despite being served by way of registered mail with the application for dispute resolution and notice of hearing at the unit address, the tenants did not appear. The landlord's agent indicated that the tenants appear to have vacated the unit on or about January 17, 2009. Accordingly, the landlord's agent stated that an order of possession and compensation for loss of rental income for February 2009 are no longer being sought.

Issue 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, the year long term of tenancy began June 1, 2004. Thereafter, tenancy continued on a month-to-month basis. Rent in the amount of \$1,050.00 is payable in advance on the first day of each month. A security deposit of \$525.00 was collected on May 16, 2004.

The tenants failed to pay rent for the month of December 2008. Accordingly, the landlord served the tenants with a 10 day notice to end tenancy for unpaid rent. The tenants further failed to pay rent for the month of January 2009.

The landlord submitted into evidence a copy of the 10 day notice dated December 30, 2008 which was served in person on the tenants on that same day.

Analysis

Based on the documentary evidence and undisputed testimony of the landlord's agent, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent. The tenants did not pay the outstanding rent within 5 days of receiving the notice and did not apply to dispute the notice. The tenants are therefore conclusively presumed under section 46(5) of the *Act* to have accepted that the tenancy ended on the effective date of the notice which was January 8, 2009.

As for the monetary order, I find the landlord has established a claim for \$2,150.00 which is comprised of unpaid rent for December 2008 (\$1,050.00), unpaid rent for January 2009 (\$1,050.00) and the \$50.00 filing fee for this application. I order that the landlord retain the security deposit of \$525.00 plus interest of \$18.60, and I grant the landlord a monetary order under section 67 of the *Act* for the balance due of \$1,606.40 (\$2,150.00 – \$543.60).

Conclusion

I hereby grant the landlord a monetary order under section 67 of the *Act* for **\$1,606.40**. This order may be served on the tenants, filed in the Small Claims Court and enforced as an order of that Court.

DATE: February 4, 2009

Dispute Resolution Officer