



Dispute Resolution Services

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

DECISION AND REASONS

Dispute Codes: OPR, MNR, MNSD, FF.

Introduction

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for orders as follows:

- An order of possession, pursuant to Section 55;
- A monetary order for unpaid rent, pursuant to Section 67;
- An order to retain the security deposit in partial satisfaction of the monetary claim, pursuant to Section 38;
- An order to recover the cost of filing the Application for Arbitration pursuant to Section 72.

The notice to end tenancy for non payment of rent, dated January 02, 2009 was served on the tenant on January 02, 2008, in person. The notice of hearing dated January 19, 2009 was served on the tenant on January 21, 2009, by registered mail. Despite having been served the notice of hearing, the tenant did not show up for the hearing. On January 31, 2009, the landlord visited the unit and found it vacant and as of February 15, 2009, a new tenant has moved in. Hence, the landlord withdrew the landlord's application for an order of possession.

The landlord attended the hearing and was given full opportunity to present evidence and make submissions. On the basis of the solemnly affirmed evidence presented at the hearing, a decision has been reached.

Issues to be decided

- Is the landlord entitled to a monetary order to recover unpaid rent, to retain the security deposit and to recover the filing fee?

Background and Evidence

The landlord testified that the tenancy started on December 01, 2005. The monthly rent was set at \$642.00 due in advance on the first day of the month. Prior to the start of the tenancy the tenant paid a security deposit in the amount of \$305.00. A term of the tenancy agreement includes a fee of \$20.00 payable by the tenant for late payment of rent. The tenant failed to pay rent for January 2009 and was served a ten day notice with an effective date of January 19, 2009. The tenant moved out sometime prior to January 31, 2009 and the landlord found a new tenant for February 15, 2009. The landlord is applying for a monetary order in the amount of \$1053.00 which consists of unpaid rent for January 2009 (\$642.00), rent for half of February 2009 (\$321.00), late fees for both months (\$40.00) and the filing fee (\$50.00).

Analysis

Based on the undisputed sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. I find that the landlord is entitled to \$1053.00 for unpaid rent, late fees and the filing fee. I order that the landlord retain the security deposit and interest of \$315.80 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$737.20. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord a monetary order in the amount of **\$737.20**

Dated February 12, 2009.

Dispute Resolution Officer