

Dispute Resolution Services

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

Decision

Dispute Codes: MNR

Introduction

This hearing dealt with an application by the landlord for a monetary order. Both parties participated in the conference call hearing and had opportunity to be heard.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

The parties agreed that the tenant was obligated to pay \$850.00 per month in rent and that she failed to pay rent on the first day of January 2009. On January 2 the landlord served the tenant with a 10-day notice to end tenancy. The tenant testified that on January 8 she offered to pay her rent but the landlord refused to accept it. The tenant vacated the rental unit on January 20, 2008.

The landlord seeks a monetary order for \$1,725.00 which represents unpaid rent for January, loss of income for February and a \$25.00 late payment fee. The landlord testified that the tenant was in a fixed term tenancy and argued that the tenant should be obligated to pay rent for February. The landlord did not enter a copy of the tenancy agreement into evidence.

Analysis

The tenant was contractually obligated to pay \$850.00 in rent on the first day of each month. I find the landlord is entitled to recover the \$850.00 which should have been paid on January 1 and I award the landlord that sum. The claim for a \$25.00 late payment fee is dismissed as the landlord did not prove that a term in the tenancy agreement permitted her to collect a late payment fee. The claim for loss of income for

February is dismissed as the landlord ended the tenancy and thereby ended the fixed term when she served a notice to end tenancy on the tenant. Although during the hearing I alluded to the landlord being entitled to recover the filing fee paid to bring this application, I note that the landlord did not claim the filing fee on her application and therefore I cannot award it.

Conclusion

The landlord has established a claim for \$850.00 in unpaid rent. I order that the landlord retain the deposit and interest of \$427.47 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$422.53. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated February 24, 2009.
