



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

Decision

Dispute Codes:

OPR, MNR, 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 Landlord withdrew the application for an Order of Possession, as the rental unit has been vacated.

The Landlord stated that he personally served the Tenant with copies of the Application for Dispute Resolution and Notice of Hearing on February 10, 2009.

These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to a monetary Order for unpaid rent and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 67 and 72 of the *Act*.

Background and Evidence

The Landlord stated that this tenancy began on November 01, 2008 and that the Tenant is required to pay monthly rent of \$800.00.

The Landlord stated that the Tenant was served with a Two Month Notice to End Tenancy, pursuant to section 49 of the *Act*, on January 29, 2009, which ended the ended tenancy on March 31, 2009. He stated that on February 01, 2009, the Tenant provided him with written notice of his intent to vacate the rental unit on March 01, 2009.

The Landlord stated that \$450.00 was paid for rent for February of 2009. He contends there is still \$350.00 outstanding in rent for February. He stated that the Tenant was served with a Ten Day Notice to End Tenancy, pursuant to section 46 of the *Act*, on February 03, 2009.

The Landlord stated that the Tenant vacated the rental property on February 16, 2009.

Analysis

Section 51(1) of the Act stipulates that a tenant who receives a notice to end a tenancy under section 49 [*landlord's use of property*] is entitled to receive from the landlord on or before the effective date of the landlord's notice, an amount that is the equivalent of one month's rent payable under the tenancy agreement. I find that the Tenant did receive notice to end a tenancy under section 49 of the Act and that they are, therefore, entitled to compensation in the amount of \$800.00, which is the equivalent of one month's rent.

I find that the Tenant is entitled to compensation under section 51, regardless of the fact that he vacated the rental unit early, as authorized by section 50 of the Act. In these circumstances, the Tenant was not required to pay rent for the month of February of 2009. On this basis, I dismiss the Landlord's application for a monetary Order for unpaid rent for February of 2009, as no rent is due for that month.

The Landlord is reminded of his obligation to return the \$450.00 in rent that was paid for February of 2008.

Conclusion

I find that the Landlord's application has been without merit, and I hereby dismiss his application to recover the cost of filing this Application for Dispute Resolution.

Date of Decision: March 10, 2009.
