



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 an application from the landlord for a monetary order in compensation for unpaid rent, 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 way of registered mail with the application for dispute resolution and notice of hearing, neither tenant appeared.

At the outset of the hearing the landlord's agent testified that the tenants have now vacated the unit. Accordingly, the landlord's agent withdrew the earlier application for an order of possession.

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 term of tenancy was from July 15, 2008 to January 30, 2009. Rent in the amount of \$1,200.00 was payable in advance on the first day of each month, and a security deposit of \$600.00 was collected at the start of tenancy.

The tenants paid only half of the rent due on January 1, 2009. Accordingly, the landlord issued a 10 day notice to end tenancy for unpaid rent. Subsequently, the tenants failed

to pay rent for February or March 2009, and the landlord's understanding is that the tenants vacated the unit sometime during the first half of March 2009.

The landlord submitted into evidence a copy of the 10 day notice dated January 19, 2009 which was hand delivered to the tenants two days earlier on January 17, 2009.

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 29, 2009. Accordingly, I find that the landlord is entitled to an order of possession.

As for the monetary order, I find that the landlord has established a claim of \$3,050.00. This is comprised of unpaid rent of \$600.00 for January 2009, unpaid rent of \$1,200.00 for February 2009, unpaid rent of \$1,200.00 for March 2009, and recovery of the \$50.00 filing fee for this application. I order that the landlord retain the security deposit of \$600.00 plus interest of \$4.18, and I grant the landlord a monetary order under section 67 of the Act for the balance due of \$2,445.82 (\$3,050.00 – \$604.18).

Conclusion

I hereby grant the landlord a monetary order under section 67 of the Act for **\$2,445.82**. This order may be served on the tenants, filed in the Small Claims Court and enforced as an order of that Court.

DATE: March 26, 2009

Dispute Resolution Officer