



Dispute Resolution Services

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

Decision

Dispute Codes: CNR, MNR, MNSD, FF

Introduction

This hearing dealt with two applications: 1) from the landlords for a monetary order for unpaid rent, retention of the security deposit in partial satisfaction of the claim and recovery of the filing fee for this application; 2) from the tenants for cancellation of the notice to end tenancy for unpaid rent and recovery of the filing fee for this application. One of the landlords attended the hearing and gave affirmed testimony. Despite making an application for dispute resolution which led to the scheduling of this hearing, and despite being served in person with the landlords' application for dispute resolution and notice of hearing, neither tenant appeared.

During the hearing the landlord withdrew his earlier application for an order of possession, as he stated that neither tenant any longer occupies the unit.

Issue to be Decided

- Whether the landlords are entitled to a monetary order under the *Act*

Background and Evidence

Pursuant to a written tenancy agreement, the term of tenancy is shown as from July 1, 2007 to July 31, 2009. The agreement names only one tenant. However, the landlord states his understanding which is that this tenant did not reside in the unit and, instead, entered into a sub-lease arrangement with a third party. 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 on June 8, 2007.

The tenants failed to pay rent for the month of January 2009. Accordingly, the landlord named the tenant with whom he signed the agreement in a 10 day notice to end tenancy for unpaid rent, and served it in-person on the sub-leasing tenant.

Subsequently, the tenants failed to pay rent for either February or March 2009.

The landlord submitted into evidence a copy of the 10 day notice dated January 21, 2009 which was served on the sub-leasing tenant on that same date.

Analysis

Based on the documentary evidence and the undisputed and affirmed testimony of the landlord, 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 having received the notice. Further, while the tenants filed an application to dispute the notice, neither appeared at the hearing, and the landlord has indicated that neither tenant any longer resides in the unit.

As for the monetary order, I find the landlord has established a claim for \$3,650.00. This is comprised of unpaid rent for each of the three months of January, February and March 2009, in addition to the \$50.00 filing fee for this application. I order that the landlord retain the security deposit of \$600.00 plus interest of \$9.60, and I grant the landlord a monetary order under section 67 of the *Act* for the balance due of \$3,040.40 (\$3,650.00 - \$609.60).

Conclusion

I hereby grant the landlord a monetary order under section 67 of the *Act* for **\$3,040.40**. This order may be served on the tenant with whom the landlord entered into a written residential tenancy agreement, filed in the Small Claims Court and enforced as an order of that Court.

DATE: March 10, 2009

Dispute Resolution Officer

