



Dispute Resolution Services

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

Decision

Dispute Codes: MNR, FF

Introduction

This hearing dealt with an application from the landlord for a monetary order for unpaid rent and recovery of the filing fee. The landlord 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, the tenant did not appear.

The landlord withdrew his earlier application for an order of possession, as his understanding is that the tenant vacated the unit on or about March 5, 2009. Further, as the landlord did not ever collect a security deposit from the tenant, the landlord's application to retain the security deposit in partial satisfaction of the claim is set aside.

Issue to be Decided

- Whether the landlord is entitled to a monetary order under the *Act*

Background and Evidence

Pursuant to a written tenancy agreement, the six month term of tenancy was from December 2008 to May 2009. Rent in the amount of \$1,300.00 was payable in advance on the first day of each month, and the tenant's cheque for a security deposit of \$650.00 was not able to be cashed due to Not Sufficient Funds.

Following the tenant's failure to pay rent for December 2008, the tenant failed to pay rent for January 2009. Accordingly, the landlord issued a 10 day notice to end tenancy for unpaid rent. Subsequently, the tenant failed to pay rent for February and March 2009.

The landlord submitted into evidence a copy of the 10 day notice dated January 16, 2009 which was posted on the tenant's door that same day.

Analysis

Based on the documentary evidence and the undisputed testimony of the landlord, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent. The tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply to dispute the notice. The tenant is 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 26, 2009.

As for the monetary order, I find the landlord has established a claim for \$5,250.00. This is comprised of unpaid rent in the total amount of \$5,200.00 for the four months from December 2008 to March 2009 (\$1,300.00 x 4), and recovery of the \$50.00 filing fee for this application. I therefore grant the landlord a monetary under section 67 of the *Act* for \$5,250.00.

Conclusion

I hereby grant the landlord a monetary order under section 67 of the *Act* for **\$5,250.00**. This order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: March 11, 2009

Dispute Resolution Officer