



Dispute Resolution Services

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

Decision

Dispute Codes MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an application from the landlord for a monetary order in compensation for unpaid rent / loss of rental income, retention of the security deposit in partial satisfaction of the claim, and recovery of the filing fee. The landlord and her counsel participated in the hearing and gave affirmed testimony. Despite being served by way of registered mail, in addition to having the application for dispute resolution and notice of hearing posted on the unit door, the tenant did not appear.

As the tenant has vacated the unit, the landlord 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 month-to-month tenancy began on December 20, 2007. Rent in the amount of \$850.00 was payable in advance on the first day of each month, and a security deposit of \$425.00 was collected at the start of tenancy.

The tenant failed to pay the full amount of rent due on January 1, 2009. Specifically, the tenant paid only \$515.00. Accordingly, the landlord issued a 10 day notice to end tenancy for unpaid rent. Subsequently, the tenant failed to the balance of rent due for January 2009 in the amount of \$335.00, or any portion of rent due on February 1 or March 1, 2009. The tenant vacated the unit on March 9, 2009 and did not inform the

landlord of any forwarding address. The landlord confirmed that following this new tenants took possession of the unit effective from mid-April 2009.

The landlord submitted into evidence a copy of the 10 day notice dated January 17, 2009 which was served in person on that same date to an adult who apparently resided with the tenant.

Analysis

Based on the documentary evidence and undisputed testimony of the landlord and her counsel, 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 30, 2009. As earlier stated, the tenant subsequently vacated the unit on March 9, 2009.

As for the monetary order, I find that the landlord has established a claim of \$2,510.00. This is comprised of the balance of unpaid rent of \$335.00 for January 2009, unpaid rent of \$850.00 for February 2009, unpaid rent of \$850.00 for March 2009, loss of rental income of \$425.00 for half of April 2009, and recovery of the \$50.00 filing fee for this application. I order that the landlord retain the security deposit of \$425.00 plus interest of \$6.59, and I grant the landlord a monetary order under section 67 of the Act for the balance due of \$2,078.41 (\$2,510.00 - \$431.59).

Conclusion

I hereby grant the landlord a monetary order under section 67 of the Act for **\$2,078.41**. This order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: April 16, 2009

Dispute Resolution Officer