



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNR, OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with cross applications. The tenant applied to cancel a Notice to End Tenancy for Unpaid Rent. The landlords applied for an Order of Possession for unpaid rent, a Monetary Order for unpaid rent, loss of rent, retention of the security deposit and recovery of the filing fee. Both parties appeared at the hearing and had an opportunity to be heard and respond to the other party's submissions.

The parties confirmed that the tenant vacated the rental unit on March 22, 2009. The tenant withdrew his request to cancel the Notice to End Tenancy and the landlord withdrew the request for an Order of Possession. I accepted the parties' requests and proceeded to hear the landlords' request for monetary compensation.

Issues(s) to be Decided

1. Is the landlord entitled to recover unpaid rent and loss of rent from the tenant?
2. Mutual agreement between the parties.
3. Retention of the security deposit.
4. Award of the filing fee.

Background and Evidence

Upon hearing undisputed testimony of the parties, I make the following findings. A six month fixed term tenancy commenced August 15, 2009. At that time, the tenant paid a \$450.00 security deposit to the landlord. On February 2, 2009 the parties entered in to a month to month tenancy. The tenant was required to pay rent of \$900.00 on the 1st day of every month, plus 1/3 of hydro bills. The tenant failed to pay rent for the month

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of March 2009 and the landlord personally served the tenant with a *10 day Notice to End Tenancy for Unpaid Rent* (the Notice) on March 2, 2009. The tenant gave the landlords a letter on March 4th or 5th advising the landlords that he would vacate the rental unit no later than March 23, 2009. After the tenant vacated the rental unit on March 22, 2009, the landlords cleaned the rental unit and commenced advertising on March 28, 2009.

In making this application, the landlord was requesting compensation for unpaid rent for March 2009 and loss of rent for the month of April 2009. The landlord testified that he has new tenants moving in for May 1, 2009.

The tenant agreed that he owed the landlords rent for the month of March 2009 and that he intends to pay that amount to the landlords. The tenant did not agree that he should have to pay the landlords \$900.00 for loss of rent for the month of April 2009 as the tenant was of the position that the landlords could have started advertising the rental unit after receiving the tenant's written assurance that he would vacate the rental unit by March 23, 2009.

During the hearing, the tenant acknowledged that the rental unit needed additional cleaning and offered to settle this dispute. The tenant offered to relinquish his security deposit to the landlords in exchange for the cleaning required in the rental unit and for a portion of the loss of rent the landlords incurred for the month of April. The landlord agreed to accept the tenant's offer of the security deposit in satisfaction of the loss incurred by the landlords for cleaning the rental unit and the loss of rent for April 2009.

Analysis

It was not in dispute that the tenant failed to pay rent for the month of March 2009 and I award the landlord \$900.00 for unpaid rent. As the landlords were successful in



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establishing that he is entitled to recover unpaid rent from the tenant, I award the \$50.00 filing fee to the landlord. The tenant is hereby ordered to pay the landlords \$950.00 forthwith. To ensure payment, I provide the landlords with a Monetary Order in the amount of \$950.00 to serve upon the tenant. The landlords may also file the Monetary Order in the Provincial Court (Small Claims) to enforce as an Order of that court.

I also accept the mutual agreement reached between the parties with respect to the landlords' claim for loss of rent for April 2009 and cleaning and I make it legally binding upon both parties. As a result, the landlords are hereby authorized to retain the tenant's security deposit in satisfaction of the cleaning required in the rental unit and the loss of rent incurred for the month of April 2009. As these matters have been heard and resolved, the landlords are precluded from making a subsequent application against the tenant for these losses. The tenant is also precluded from requesting a refund of the security deposit.

Conclusion

In recognition of a mutual agreement between the parties, the landlords are authorized to retain the tenant's security deposit in satisfaction of cleaning and loss of rent for the month of April 2009. The landlords are also provided with a Monetary Order in the total amount of \$950.00 for unpaid rent for March 2009 and recovery of the filing fee.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: April 09, 2009.

Dispute Resolution Officer