



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

Re Hearing Decision

Dispute Codes:

MND, MNSD, FF

Introduction

This is a re-hearing on the landlord's Direct Request application considered on April 3, 2009 requesting an Order of Possession and Monetary Order. The landlord was successful and was awarded an Order of Possession effective two days on service and a monetary order for \$3,664.95 based on the Ten-Day Notice dated March 5, 2009. The tenant made application for Review Consideration and in a decision dated April 17, 2009, the tenant's request was granted in part. The landlord's monetary order was ordered to be set aside and a rehearing was ordered restricted to the determination of the amount of rental arrears, which the tenant had disputed in the Review application. In the Review Consideration decision, the tenant was instructed that "*The Tenants must serve upon the landlord a copy of this Review Decision and the attached Notice of Hearing within three (3) days of receiving this Review Decision*".

Issue(s) to be Decided

The issue to be determined based on the testimony and the evidence is: how much monetary compensation is the landlord validly entitled to under section 67 of the *Act* .

Background and Evidence

A re-hearing was convened today and was scheduled to begin at 9:00 a.m. At 9:15 a.m. Neither party was in attendance. The Dispute Resolution Officer presiding at the original hearing found that the tenant owed rental arrears, determined to total \$5,000.00 including \$4,950.00 in rent owed and the \$50.00 fee for filing the application. The security deposit

was applied to set off the arrears and a monetary order for \$3,664.95 was issued. The second Dispute Resolution Officer, presiding over the Review Consideration application, also made a determination that arrears were owed by the tenant, but granted the tenant's application for a rehearing limited solely to the issue of exactly *how much* was owed.

Analysis

The original application was a Direct Application by the landlord with all of the landlord's evidence attached. The tenant had requested a re-hearing to establish the amount of arrears and had submitted into evidence a copy of a money order dated January 26, 2009 for \$2,500.00 payable to the landlord. The re-hearing was granted and scheduled for today.

However, because the tenant did not appear, it was not possible to question the tenant regarding the purported payment and the disputed amount of the arrears could not be considered. There was also no way to verify that the tenant had properly served the landlord with the hearing documents and with the evidence, as instructed. Given the above, I find that the landlord is entitled to a monetary order based on the original amount of arrears claimed by the landlord in the original application. That being said, as with every monetary order, any payments subsequently made by the respondent towards an amount shown on the order should always be taken into account by the claimant and would function to reduce the outstanding balance of the debt.

Conclusion

I hereby grant a monetary order in favour of the landlord in the amount of \$3,664.95. This order replaces the previous monetary order issued on April 3, 2009. The order must be served on the respondent and is enforceable through the Provincial Court, (Small Claims).

DT

Date of Decision

Dispute Resolution Officer