

Dispute Resolution Services

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

DECISION AND REASONS

Dispute Codes: OPR, MNR, MNDC, FF

Introduction

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for orders as follows:

- An order of possession pursuant to section 55;
- A monetary order to recover unpaid rent pursuant to section 67;
- An order to recover the filing fee.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be decided

At the start of the hearing, the landlord stated that since the tenant had moved out on April 01, 2009, an order of possession was no longer necessary.

Therefore, the only issue to be resolved is whether the landlord is entitled to a monetary order to recover unpaid rent, loss of income and the filing fee.

Background and Evidence

The landlord testified that the current landlord took over the management of the rental unit on March 01, 2009. The monthly rent was \$2,200.00 due in advance on the first day of the month.

The landlord stated that the tenant failed to pay rent for March and on March 12, 2009; the landlord served the tenant with a ten day notice to end tenancy. The landlord applied for dispute resolution on March 24, 2009. The landlord stated that she did not hear back from the tenant and was waiting for this hearing to take place, before taking any further action against the tenant.

The tenant stated that she moved out on April 01, 2009 after giving the landlord verbal notice on the telephone. The tenant admitted that she did not provide written notice to the landlord.

The landlord stated that she found out on or about May 11, 2009 from a neighbour that the tenant had moved out. The landlord is claiming rent for March 2009 and loss of income for April 2009.

Analysis

Based on the sworn testimony of both parties, I find that the tenant did not pay rent for March 2009 and pursuant to section 26(1) of the *Residential Tenancy Act*, a tenant must pay rent when it is due under the tenancy agreement. Therefore, I find that the landlord is entitled to \$2,200.00 for March 2009.

Sections 45 and 52 of the *Residential Tenancy Act*, state that a tenant may end a tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date that landlord receives the notice and that the notice must be in writing and signed and dated by the tenant.

Based on the sworn testimony of both parties, I find that the tenant did not give the landlord written notice to end the tenancy and moved out without informing the landlord. Therefore, I find that the landlord is entitled to loss of income of \$2,200.00 for April.

The landlord has proven her case and therefore is also entitled to recover the filing fee in the amount of \$50.00.

Conclusion

I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the amount of **\$4,450.00**. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated May 15, 2009.

Dispute Resolution Officer