



Dispute Resolution Services

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

Decision

Dispute Codes: MNR, MNSD, FF

Introduction

This hearing dealt with an application from the landlord for a monetary order as 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's agent 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's agent withdrew the earlier application for a monetary order as compensation for unpaid utilities, as not all of the related invoices / receipts are presently available. Further, the landlord's agent withdrew the application for a monetary order as compensation for repairs in the unit as an English translation of the related invoices and receipts are also presently unavailable.

The landlord's agent stated that a hearing has been scheduled for September 18, 2009 in response to the tenant's separate application for dispute resolution. The landlord's agent has the option of making a further application for dispute resolution seeking a monetary order for unpaid utilities and repairs to damage, and requesting that the matter be heard during the same hearing in September 2009, as above.

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 term of tenancy is from September 1, 2008 to August 31, 2009. Rent in the amount of \$1,200.00 is due on the first day of the month, and a security deposit of \$600.00 was collected on August 29, 2008.

The landlord's agent testified that by letter dated April 1, 2009, the tenant gave notice of her intent to vacate the unit on April 4, 2009. Subsequently, the tenant paid no rent for April and left the unit on April 3, 2009. The landlord's agent testified that as a result of advertising and numerous showings, new tenants have been found to occupy the unit effective August 1, 2009, which is the final month in the fixed term tenancy originally agreed to by the parties. In the result, the landlord seeks compensation for unpaid rent / loss of rental income for April, May, June and July 2009 in the total amount of \$4,800.00 (4 x \$1,200.00), in addition to recovery of the \$50.00 filing fee.

Analysis

Related to ending a tenancy, section 45 of the Act speaks to **Tenant's notice**. In particular, section 45(2) of the Act states:

45(2) A tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that

- (a) is not earlier than one month after the date the landlord receives the notice,
- (b) is not earlier than the date specified in the tenancy agreement as the end of the tenancy, and
- (c) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

Based on the documentary evidence and undisputed testimony of the landlord's agent, I find that the tenant has not complied with the Act where it concerns her manner of ending the tenancy, and I find that the landlord has established a claim of \$4,850.00. This is comprised of \$4,800.00 in unpaid rent for 4 months, in addition to recovery of the \$50.00 filing fee. I order that the landlord retain the security deposit of \$600.00 plus interest of \$3.07, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$4,246.93 (\$4,850.00 - \$603.07).

Conclusion

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of **\$4,246.93**. This order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: July 13, 2009

Dispute Resolution Officer