



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION AND REASONS

Dispute Codes:

OP, MNR, MNSD, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for an Order of possession, a monetary Order for unpaid rent, to retain all or part of the security deposit, and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution. The landlord applied for dispute resolution via the Direct Request process and a decision issued by Dispute Resolution Officer Bird on June 22, 2009 directed the application be reconvened to a participatory hearing on this date.

The landlord stated that copies of the Application for Dispute Resolution and Notice of this Hearing was sent to the tenant via registered mail at the address provided to the landlord by the tenant several months ago. The landlord stated that since June 16, 2009 the tenant has not been at the rental unit and that he left behind all of his belongings; leading the landlord to question the tenant's whereabouts. As there is no certainty as to where the tenant may have gone or if he continues to possess the postal box, the documents are not deemed to have been served in accordance with section 89 of the *Act*.

Preliminary Matter

The landlord testified that they no longer require an Order of possession as the tenant has apparently abandoned the rental unit. The landlord did locate a postal box number for the tenant which was provided to the Residential Tenancy Branch on June 15, 2009; however this address has not been accepted as a current address for the tenant.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary Order for unpaid rent; to keep all or part of the security deposit; and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord testified that on June 15, 2009 they spoke with the tenant and asked if he was planning on moving out. The landlord stated that on June 5, 2009 they had issued a 10 Day Notice to End Tenancy with an effective vacancy date of June 15, 2009. The landlord stated the tenant said he would leave that day. The landlord stated that the tenant did leave the rental unit but failed to take any belongings, leaving behind all of his

personal effects. The landlord stated that they are now holding these belongings as required by the Residential Tenancy Regulation.

The landlords testified that that on June 16, 2009 they did contact the RCMP out of concern for the tenant. The landlord has not had contact with the tenant since June 15, 2009.

The landlord has claimed compensation of \$1,245.00 for loss of rent up to June 1, 2009 and requested retention of the deposit paid in partial satisfaction of the amount owed by the tenant.

The landlord has requested compensation for filing fee costs.

Analysis

As the landlord has no confidence as to the whereabouts of the tenant or his current mailing address, the landlord's claim for compensation for loss of rent is dismissed with leave to reapply.

The landlord continues to hold the deposit paid by the tenant in trust and is bound by sections 38 and 39 of the Act. The tenant has not made a written request for return of the deposit and there is no confidence that the tenant's postal box address is accurate.

Conclusion

The landlord claim for compensation for unpaid rent is dismissed with leave to reapply.

The landlord continues to retain the deposit paid and must disburse that deposit as required under sections 38 and 39 of the Act.

The landlord no longer requests an Order of possession as the tenant appears to have abandoned the rental unit effective June 16, 2009.

The landlord's claim for filing fee costs is dismissed.

Dated August 04, 2009.

Dispute Resolution Officer