



# 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 review hearing dealt with two applications: 1) from the landlord for an order of possession for unpaid rent, a monetary order for unpaid rent, retention of the security deposit, and recovery of the filing fee; 2) from the tenant for cancellation of a notice to end tenancy for unpaid rent, and a range of other orders under the Act including repairs, permission to assign or sublet, a rent reduction and so on.

A previous hearing was convened on June 18, 2009 with a decision, order of possession and monetary order issued in favour of the landlord on that same date. The tenant did not appear at that hearing, and subsequently applied for leave for review on the ground that she was unable to attend the hearing because of circumstances that could not be anticipated and were beyond her control. Accordingly, this review hearing was scheduled. The landlord's agent participated in the review hearing and gave affirmed testimony.

The Notice of Review Hearing was mailed to the tenant at the address shown on her Application to Review Arbitrator's Decision or Order. However, the notice was returned to the Residential Tenancy Branch with a manual notation on the envelope of "moved" and a sticker instructing "Return to Sender." There is no evidence that the tenant informed the Residential Tenancy Branch of a change in her address subsequent to the time when she filed her application for review. In the result, the tenant did not appear at the review hearing.

At the outset of the review hearing the landlord's agent stated that the tenant vacated the unit on June 29, 2009 and left no forwarding address. Accordingly, the landlord no longer requires an order of possession.

### **Issues to be decided**

- Whether the landlord is entitled to a monetary order under the Act for unpaid rent, late payment of rent fees, retention of the security deposit and recovery of the filing fee

### **Background and Evidence**

Pursuant to a written residential tenancy agreement, the term of the tenancy was from March 15, 2007 to February 28, 2008. Thereafter, tenancy was to continue on a month-to-month basis. Rent in the amount of \$1,300.00 was payable on the first day of the month, and a security deposit of \$625.00 was collected at the outset of tenancy.

Arising from portions of rent which remained outstanding for March, April and May 2009, the landlord issued a 10 day notice to end tenancy for unpaid rent dated May 4, 2009. The notice was served by posting on the tenant's door on that same date, and a copy of the notice was submitted into evidence. Subsequently, the landlord claims that the tenant offered to pay only a portion of the unpaid rent after the expiration of the statutory 5 day period.

Following the tenant's departure from the unit on June 29, 2009, the landlord states that various cleaning and repairs were required before the unit could be re-rented. New renters were found effective August 1, 2009.

### **Analysis**

Based on the documentary evidence and undisputed testimony of the landlord's agent, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated May 4, 2009. The tenant did not pay the outstanding rent within 5 days of receiving the notice. Thereafter, the tenant vacated the unit on June 29, 2009, and

various portions of rent remain outstanding for the months of March, April, May and June 2009.

As for the monetary order, I find that the landlord has established a claim of \$2,854.50. This is comprised of \$320.00 in unpaid rent for March, \$206.50 in unpaid rent for April, \$888.00 in unpaid rent for May, \$1,300.00 in unpaid rent for June, \$100.00 in fees for late payment of rent (4 x \$25.00), in addition to recovery of the \$50.00 filing fee; the subtotal of \$2,864.50 is reduced by the amount of a \$10.00 credit in favour of the tenant, as reported by the landlord's agent with respect to rent received for April.

I order that the landlord retain the security deposit of \$625.00 plus interest of \$16.99, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$2,212.51 (\$2,854.50 – \$641.99).

The landlord has the option of applying for a monetary order as compensation for loss of rental income for July 2009, in addition to recovery of costs associated with cleaning and repairs required in the unit following the tenant's departure on June 29, 2009.

### **Conclusion**

Following from all of the above, pursuant to section 82 of the Act I hereby vary the monetary order dated June 18, 2009, and pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of **\$2,212.51**. This order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: August 27, 2009

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Dispute Resolution Officer