

Decision

Dispute Codes: CNR, MNR, MNSD, FF

Introduction

This hearing dealt with two applications: 1) from the landlord for a monetary order for unpaid rent / loss of rental income, retention of the security deposit, and recovery of the filing fee; 2) from the tenants for cancellation of the notice to end tenancy for unpaid rent. The landlord participated in the hearing and gave affirmed testimony.

Despite the fact that this hearing was scheduled in response to an application filed by both parties, and despite being served by way of registered mail with the landlord's application for dispute resolution and notice of hearing, neither tenant appeared.

As the tenants vacated the unit subsequent to the landlord's application, the landlord withdrew the earlier application for an order of possession.

Issues to be decided

- Whether the parties are entitled to any of the above under the Act

Background and Evidence

Pursuant to a written residential tenancy agreement the month-to-month tenancy began on July 1, 2009. Rent in the amount of \$600.00 was payable on the first day of the month, and a security deposit of \$300.00 was collected on June 19, 2009.

Arising from rent which was unpaid on September 1, 2009, the landlord issued a 10 day notice to end tenancy for unpaid rent dated September 2, 2009. The notice was served by posting on the tenants' door on that same date. A copy of the notice was submitted into evidence. Subsequently, the tenants paid no further rent and vacated the unit on or around October 15, 2009 without informing the landlord of a forwarding address.

Analysis

Based on the documentary evidence and undisputed testimony of the landlord, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent dated September 2, 2009. The tenants did not pay the outstanding rent within 5 days of receiving the notice and did not apply to dispute the notice. The tenants are therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice.

As for the monetary order, I find that the landlord has established a claim of \$1,850.00. This is comprised of \$1,800.00 in unpaid rent / loss of rental income combined for September, October and November 2009, in addition to the \$50.00 filing fee. I order that the landlord retain the security deposit of \$300.00 and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$1,550.00 (\$1,850.00 - \$300.00).

Conclusion

The tenants' application is dismissed.

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of **\$1,550.00**. This order may be served on the tenants, filed in the Small Claims Court and enforced as an order of that Court.

DATE: November 16, 2009

Dispute Resolution Officer