

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, retention of the security deposit, and recovery of the filing fee. The landlord participated in the hearing and gave affirmed testimony.

Despite being served in person on December 11, 2009 with the application for dispute resolution and notice of hearing, the tenant did not appear.

As the tenant vacated the unit on January 12, 2010, the landlord withdrew her earlier application for an order of possession.

Issues to be decided

- Whether the landlord is entitled to any or all of the above under the Act

Background and Evidence

The month-to-month tenancy began on August 29, 2008. Rent in the amount of \$600.00 was payable in advance on the first day of each month. A security deposit of \$300.00 was collected on August 31, 2008.

Arising from rent which was not fully paid over a period of several months, the landlord issued a 10 day notice to end tenancy for unpaid rent dated November 17, 2009. The notice was served in person on the tenant on that same date. A copy of the notice was submitted into evidence. Subsequently, the tenant did not pay the full amount of overdue rent and, as previously stated, the tenant vacated the unit on January 12, 2010.

Analysis

Based on the documentary evidence and undisputed testimony of the landlord, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent dated November 17, 2009. The tenant did not pay the full amount of outstanding rent within 5 days of receiving the notice and did not apply to dispute the notice. The tenant is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice, even while he continued to reside in the unit until January 12, 2010.

As for the monetary order, I find that the landlord has established a claim of \$1,632.25. This is comprised of \$1,582.25 in unpaid rent calculated up to January 12, 2010, in addition to the \$50.00 filing fee. I order that the landlord retain the security deposit of \$300.00 plus interest of \$1.51, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$1,330.74 (\$1,632.25 - \$301.51)

Conclusion

Pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of **\$1,330.74**. This order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: January 21, 2010

Dispute Resolution Officer