



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

OP, MNR, MNDC, 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 for Unpaid Rent, a monetary Order for unpaid rent and loss of rent revenue, to retain all or part of the security deposit, and to recover the filing fee from the tenants for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that he personally served copies of the Application for Dispute Resolution and Notice of Hearing to each of the tenants on December 15, 2009 at the rental unit. These documents are deemed to have been served in accordance with section 89 of the *Act*, however the tenants did not appear at the hearing.

Preliminary Matter

The landlord's evidence indicated that on November 22, 2009, the tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent. The landlord stated that the tenants did not pay December rent and moved out the rental unit on December 23, 2009 without providing any notice. The landlord withdrew the portion of his application requesting an Order of possession.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

Is the landlord entitled to compensation for loss of rent revenue?

May the landlord retain the deposit paid?

Is the landlord entitled to filing fee costs?

Background and Evidence

The landlord testified that the tenancy commenced October 1, 2009, that the tenants paid a deposit in the sum of \$450.00 and that rent was \$900.00 per month due on the first day of the month. The landlord stated that the tenants paid rent for October and November and failed to pay December rent.

The landlord testified that the tenants moved out sometime during the night of December 23, 2009 and that they were unable to rent the unit out for January 1, 2010, as it had been damaged. The landlord stated that they had to clean the carpets, fix holes left in the walls, clean and paint the unit. Just prior to mid-January the landlord commenced advertising the unit, even though it was not ready for painting until January 15. The landlord stated that this unit was brand new and had not been previously rented.

The landlord has applied to retain the deposit paid, for loss of December rent owed and for loss of January rent revenue.

Analysis

I find, based on the landlord's testimony and, in the absence of the tenants, that the landlord is entitled to compensation for unpaid December rent in the sum of \$900.00.

Section 7(2) of the Act requires a landlord to do whatever is reasonable to mitigate a claim for damage or loss. I find that the tenants vacated the rental unit late in the month and at a time of year when re-renting on short notice could prove difficult. I find, in the absence of the tenants at this hearing, that the landlord was required to clean and make repairs to the rental unit, which delayed their ability to rent the unit. Therefore, I find that the landlord is entitled to compensation for loss of January rent revenue.

I find that the landlord's application has merit and that the landlord is entitled to recover the filing fee from the tenants for the cost of this Application for Dispute Resolution.

Conclusion

I find that the landlord has established a monetary claim, in the amount of \$1,850.00 in compensation for loss of December 2009 rent, January 2010 rent revenue and the filing fee costs of \$50.00 paid by the landlord for this Application for Dispute Resolution.

I order that the Landlord retain the deposit and interest of \$450.00 in partial satisfaction of the claim and I grant the Landlord an order under section 60 for the balance due of

\$1,400.00. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: January 25, 2010.

Dispute Resolution Officer