



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Despite having been served with the application for dispute resolution and notice of hearing personally on February 4, 2010, the tenant did not participate in the conference call hearing.

During the hearing, the landlord stated that the tenant had vacated the rental premises roughly at the end of January, 2010. Therefore, the landlord's application for an Order of Possession is hereby dismissed without leave to reapply.

Issues(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent or utilities, and if so, is the landlord entitled to an order permitting the landlord to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The tenancy began on June 1, 2008. Rent in the amount of \$575.00 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$287.50. The tenant failed to pay rent in full for the months of November, 2009 and December, 2009 and on December 22, 2009 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The tenant further failed to pay rent in the month of January, 2010.

Analysis

Based on the landlord's testimony I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant has not paid the outstanding rent and has not applied for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice and moved out of the rental premises in January, 2010.

Further, based on the landlord's testimony, I find that the landlord is entitled to recover rent arrears from the tenant.

Conclusion

As for the monetary order, I find that the landlord has established a claim for \$1,550.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the deposit and interest of \$290.25 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1,309.75. This order may be filed in the Small Claims Court 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: February 25, 2010.

Dispute Resolution Officer