



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, 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 16, 2010, the tenant did not participate in the conference call hearing.

The tenant vacated the premises on February 20, 2010, and therefore, the landlord's application for an Order of Possession has been withdrawn.

The landlord also claimed an anticipated rent loss for March and April, 2010, but has withdrawn that portion of his application.

Issues(s) to be Decided

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

Background and Evidence

The tenancy began on January 1, 2010. Rent in the amount of \$675.00 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 \$337.50. The tenant failed to pay rent in the month of February, 2010 and on February 2, 2010 the landlord served

the tenant with a notice to end tenancy for non-payment of rent. The tenant vacated the residence on February 20, 2010.

The landlord also claimed a late fee in the amount of \$25.00 for February's rent.

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.

The Tenancy Agreement was provided as evidence, but has no provision for a \$25.00 late fee. This portion of the landlord's application is dismissed without leave to reapply.

Conclusion

Based on the above facts I find that the landlord is entitled to a monetary order, I find that the landlord has established a claim for \$675.00 in unpaid rent. The landlord is also entitled to recovery of the \$50 filing fee. I order that the landlord retain the deposit and interest of \$337.50 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$387.50. 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