

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution for a monetary order.

The hearing was held via teleconference and was attended by the landlord.

The landlord testified that she served the tenant with the notice of the hearing on November 10, 2009 while the tenant was still living in the rental unit, I am therefore satisfied with the service of the Notice of Hearing.

The landlord has not been able to find the tenant since he moved out and was not able to serve additional evidence to the tenant, however, the additional evidence was a receipt for roof repairs and is less than the landlord's original estimate made in her claim, as such I find the tenant is not unfairly prejudiced by non receipt of the receipt.

I required the landlord to provide confirmation from her banking institution as to what steps they would be taking to return to her the monies that were taken from her account and allegedly provided to the tenant, without her consent. I allowed the landlord until the end of business on March 24, 2010 to submit this evidence.

The landlord submitted documentation from her correspondence with the banking institution since this hearing regarding their attempts to retrieve funds released by the landlord's bank account to the tenant.

Issues(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent; for repairs and cleaning; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord submitted into evidence the following documents:

- A copy of a tenancy agreement signed by the parties on July 20, 2009 for a 12 month fixed term tenancy for rent in the amount of \$700.00 due on the 1st of the month and a security deposit of \$350.00 was paid;
- A copy of a warning letter to the tenant dated August 30, 2009 regarding a number of issues;

- A copy of a deposit slip from the landlord's banking institution that states the teller took a deposit and the depositor later returned and cancelled the deposit and the teller returned the money to the depositor;
- Copies of email correspondence from the landlord to the tenant dating from September 10, 2009 to November 5, 2009 demand payment of utilities;
- A copy of a gas utility bill;
- A receipt for replacement of damage or missing shingles on the roof at the rental unit; and
- A photograph of a satellite dish on the roof.

The landlord testified the last time she saw the tenant was the day she served him notice of this hearing. She stated that the tenant did not repair the roof as ordered in a previous Dispute Resolution Decision but that he left the rental unit at some time after November 10, 2009 and did not clean the rental unit.

The landlord testified that on October 30, 2009 a teller at her banking institution took a deposit for the landlord's account and that latter the same day the same man came back to the teller and said that he put the money in the wrong bank and asked for the money to be returned. The teller returned the money.

Analysis

Section 26 of the Act requires a tenant to pay rent when it is due under the tenancy agreement. As the tenancy ended on November 30, 2009 I find the tenant was responsible to pay rent for the full month of November, 2009.

As the tenancy agreement required the tenant to pay utilities to the landlord and since the landlord provided adequate notice to the tenant requesting payment I find the landlord is entitled to 381.50 for utilities owed.

Section 37 requires a tenant who vacates a rental unit to leave it reasonably clean and undamaged except for reasonable wear and tear. I find the landlord's testimony credible that the rental unit required cleaning and as such find the amount of \$100.00 as reasonable compensation.

As the tenant was previously ordered to repair the roof and the landlord's evidence shows the tenant did not comply with that order and that the landlord had the repairs made I find the tenant is responsible for the repairs in the amount of \$147.00.

Section 7 of the Act states that a landlord who claims compensation for damage or loss that results from the tenant's non-compliance with the Act must do whatever is reasonable to minimize the damage or loss. I am satisfied with the landlord's attempt to retrieve her lost rent from her banking institution in an attempt to mitigate her losses.

Conclusion

I find that the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$1,378.50** comprised of \$700.00 rent owed; \$381.50 utilities owed; \$100.00 cleaning; \$147.00 repairs and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$350.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$1,028.50**. This order must be served on the tenant and 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: March 25, 2010.

Dispute Resolution Officer