

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

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

The hearing was conducted via teleconference and was attended by the landlord. The tenant did not attend.

The landlord provided written confirmation of the service of the notice of hearing and evidence via registered mail. The landlord also confirmed the tenant did not accept the registered mail. I am satisfied the landlord adequately served the tenant.

At the onset of the hearing the landlord confirmed that the tenant moved out of the rental unit in January, 2010, as such an order of possession was no longer required and his application was amended to deal only with the monetary orders.

Issues(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent; for damages to the rental unit; 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 the following documentation into evidence:

- A copy of a tenancy agreement and addendum signed by the parties on September 29, 2009 for a 6 month fixed term tenancy for a monthly rent in the amount of \$1,250.00 due on the 1st of the month, a security deposit of \$625.00 was paid on September 28, 2009. The addendum outlines the tenant was responsible to pay for electric and water utilities;
- A copy of a Condition Inspection Report showing both the move in and move out conditions. The tenant and landlord signed the move in portion but only the landlord signed the move out inspection;
- A breakdown of his monetary claim to include rent arrears; costs to repair damages, and utility bills owing;
- Copies of the utility bills for;
- Copies of cheques issued to the landlord from the tenant that were returned to the tenant and one dated January 1, 2010 for which the landlord indicates a stop payment was issued; and
- Email correspondence between the landlord and tenant dated February 6, 2010.

The landlord indicated the rental unit was re-rented to new tenants effective February 15, 2010. The landlord further testified that the costs for the repairs were primarily labour with supplies amounting to \$50.00. The landlord's monetary claim is outlined in the following table:

Description	Amount
Rent – January	\$1,250.00
Costs to remove yellow sealant	\$100.00
Costs to repair damaged walls and closet door	\$215.00
Electrical Utility Bill	\$85.00
Water Utility Bill	\$102.33
Total	\$1752.33

Analysis

Section 45 allows a tenant to end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that is:

1. Not earlier than one month after the date the landlord receives the notice;
2. Not earlier than the date specified in the tenancy agreement as the end of the tenancy, and
3. The day before the day in the month, that rent is payable.

This section does allow if the landlord has failed to comply with a material term of the tenancy agreement and has not corrected the section within a reasonable period after the tenant gives written notice of the failure the tenant may end the tenancy after the landlord receives the notice. I find the tenant was not compliant with the *Act*, in ending the tenancy prior to the end date of the fixed term.

Section 7 of the *Act* states that if a landlord claims compensation for damage or loss that results from the tenant's non-compliance with the *Act* or tenancy agreement, they must do whatever is reasonable to minimize the damage or loss. I am satisfied that the landlord took reasonable steps to mitigate his losses.

I therefore find the tenant is responsible for rent and utilities, as per the tenancy agreement for the full month of January 2010 and a half month of February 2010, in the amount of \$1875.00.

I also find the landlord has established that damages to the rental unit during the tenancy and is entitled to compensation for the repairs as outlined in his application, in the amount of \$315.00.

Conclusion

I find that the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$2,427.33** comprised of \$2,377.33 rent owed 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 \$625.00 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$1,802.33**. 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 12, 2010.

Dispute Resolution Officer