

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing was convened by way of conference call to deal 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 by Registered Mail on February 16, 2010, the tenant did not participate in the conference call hearing.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

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

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The tenancy began on November 1, 2009. Rent in the amount of \$1,000.00 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 \$500.00.

The tenant failed to pay rent in full for the month of January, 2010 on the 1st of the month, but did pay \$800.00 on January 4 and \$200.00 on January 8, 2010. The landlord is claiming a \$25.00 late payment fee for the month of January, 2010, which is contained in the Tenancy Agreement that was provided as evidence by the landlord prior to the hearing.

The tenant further failed to pay rent in the month of February, 2010 and on February 4, 2010 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The tenant vacated the unit sometime before February 25, 2010, but did return to complete the condition inspection-out report on February 25, 2010. No Order of

Possession is sought by the landlord, however, the landlord has requested a monetary order for loss of rent for March, 2010 because he was not able to re-rent the unit for March due to the condition left by this tenant.

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 the tenant vacated the unit.

Conclusion

As for the monetary order, I find that the landlord has established a claim for \$2,000.00 in unpaid rent as well as \$50.00 in late fees. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the deposit and interest of \$500.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1,600.00. This order may be filed in the Small Claims Court and enforced as an order of that Court. The landlord's application for an Order of Possession is dismissed without leave to reapply.

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 18, 2010.

Dispute Resolution Officer