

DECISION

Dispute Codes MNR, MNDC, FF (MND)

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord. The landlord amended his application as he had selected the wrong section on the application for damages to the rental unit. The landlord also miss-spelt the tenants last name and this has also been amended on the application. The landlord is applying for a Monetary Order to recover unpaid rent, for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)* and to recover the filing fee.

Service of the hearing documents was done in accordance with section 89 of the *Act*, and was hand delivered to the tenant on November 17, 2009.

Both parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

Preliminary Issues

The landlord has sought to amend his application for a further Monetary Order but was unable to serve the tenant with the amended application and evidence prior to this hearing. Due to this I have only heard the landlords' original application and the landlord is at liberty to file a new application.

Issues(s) to be Decided

- Is the landlord entitled to a Monetary Order for unpaid rent?
- Is the landlord entitled to a Monetary Order to recover money owed for other expenses incurred?

Background and Evidence

This tenancy started on August 15, 2009. This was a fixed term tenancy which was due to end on August 31, 2010. Rent for this unit was \$1,050.00 per month. Rent for August, 2009 was due on the 15th August, 2009 and thereafter rent was due on the 1st of each month. The tenant was evicted from the rental unit on November 17, 2009.

The landlord testifies that the tenant owed rent for August, 2009 of \$250.00. The tenant paid this amount by cheque but there were insufficient funds available to honour this cheque and it was returned by the bank. The landlord testifies that the tenant wrote other cheques which were also returned for insufficient funds and for fraudulent use of bank accounts. The landlord seeks the rent due for August, 2009 of \$250.00 and the bank fees for the return of these cheques to a sum of \$175.00.

The landlord testifies that the tenant did not pay rent for September, October or November, 2009 to a total amount of \$3,150.00. The landlord testifies that he also incurred move in and move out Strata Fees of \$200.00 which he wants the tenant to reimburse him for.

The landlord testifies that he informed the tenant that a viewing would take place at 2.15pm. At around 4.30pm the tenant called the landlord and said he had left an envelope on the counter top with the rent money. The landlord claims the tenant later changed this to having left the envelope with the rent money behind the bagel toaster. The tenant at first said the cash in the envelope was \$3,200.00 and last week he called the landlords manager and stated the money in the envelope was \$3,800.00. The landlord states he spoke to the police to confirm the amount of money the tenant first claimed to be in the envelope was \$3,200.00 not \$3,800.00 he later claims. The landlord testifies that he did not see an envelope in the rental unit.

The tenant testifies that he borrowed the money to pay the outstanding rent from his girlfriend and left it on the kitchen counter. The landlord had a viewing of the property and the money went missing. The tenant claims he phoned the landlord to ask him about the missing money. The tenant claims the landlord is responsible for this missing money.

Analysis

Section 26 of the Act states that a tenant must pay rent on the day it is due under the tenancy agreement. I find the tenant did not pay rent to the landlord on the day it was due for August, September, October and November, 2009. Based on the testimony, evidence and balance of

probabilities, I find that the landlord has established his claim for unpaid rent of **\$3,400.00** pursuant to section 67 of the *Act*.

I also find the landlord is entitled to recover the amounts of **\$200.00** for the move in and move out Strata fees and **\$175.00** for the bank charges the landlord incurred for the number of cheques the tenant wrote that were returned as there were insufficient funds available and fraudulent use of an account pursuant to section 67 of the *Act*.

I find the tenants claim that he left an envelope in the rental unit with the outstanding rent has no merit. The tenant has provided no evidence to support his claim that this envelope was stolen during a viewing of the rental unit.

As the landlord has been successful with his application I find he is also entitled to recover the **\$50.00** filing fee paid for this proceeding pursuant to section 72(1) of the *Act*. A Monetary Order has been issued for the following amount:

Outstanding rent	\$3,400.00
Bank charges	\$175.00
Filing fee	\$50.00
Total amount due to the landlord	\$3,825.00

Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$3,825.00**. The order must be served on the respondent and is enforceable through the Provincial Court 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 22, 2010.

Dispute Resolution Officer