

DECISION

Dispute Codes

MNR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to obtain a Monetary Order for unpaid rent and to recover the cost of the filing fee.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on November 04, 2009. Mail receipt numbers were provided in the landlord's documentary evidence. The tenant was deemed to be served the hearing documents on November 09, 2009, the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord appeared, gave her testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

Is the landlord entitled to recover unpaid rent?

Background and Evidence

This month to month tenancy started on February 15, 2009, the monthly rent was \$1,200.00 which was due on the 15th of each month. The tenant paid a security deposit of \$600.00 on February 12, 2009.

The landlord states that she told the tenant she was selling her condo and would be giving the tenant two months notice to End the tenancy. This Notice was given verbally. The landlord and tenant agreed at the time that the tenant would be entitled to one month's free rent based on a Two Month Notice to End Tenancy in compensation for a Notice.

The landlord states that she did not give the tenant a Notice on an approved form and therefore the verbal Notice was invalid. When the condo was for sale the tenant expressed an interest in purchasing it. However, she was not successful and the condo was sold to a third party who took over ownership on September 15, 2009. The landlord states that the tenant has entered into a new tenancy agreement with the new owner/landlord and her tenancy has continued in the rental unit.

The landlord claims the tenant paid rent from July 15 to August 15, 2009 but did not pay rent from August 15 to September 15, 2009. The landlord claims unpaid rent of \$1,200.00 and seeks to recover her filing fee of \$50.00.

Analysis

I am satisfied that the landlord did not give the tenant a notice to end tenancy pursuant to s.49 of the *Act*. As the tenant withheld her last month's rent based on a verbal notice to end the tenancy I find she was not entitled to do so and was required to pay rent from August 15 to September 15, 2009. Section 51 of the *Act* states;

Tenant's compensation: section 49 notice

51 (1) A tenant who receives a notice to end a tenancy under section 49 [*landlord's use of property*] is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement.

This compensation is there to help the tenant with moving costs if a Two Month Notice has been issued by the landlord for the landlords' use of the property. In this case the landlord did not issue the tenant with a Two Month Notice and the tenant did not have to move from the property but entered into a new tenancy with the new owner/landlord. Consequently I find the tenant was not entitled to withhold the rent of \$1,200.00 and the landlords' application for a Monetary Order to recover the unpaid rent is upheld.

As the landlord has been successful with her claim I find she is entitled to recover the \$50.00 filing fee from the tenant. A Monetary Order has been issued for the amount of **\$1,250.00**

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 **\$1,250.00**. 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 05, 2010.

Dispute Resolution Officer