

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing was convened by way of conference call to deal with the landlord's application for an Order of Possession for unpaid rent, a monetary order for unpaid rent, an order permitting the landlord to retain the security deposit in partial satisfaction of the claim, and to recover the filing fee from the tenant for the cost of this application.

An agent for the landlord appeared and gave evidence. No one appeared on behalf of the tenants, although the tenants were served with the Notice of Hearing documents by registered mail on February 18, 2010.

The landlord's agent stated at the outset of the hearing that the tenants have vacated the unit and, therefore, no Order of Possession is sought, however, the landlord's Application for Dispute Resolution also includes an application that I order that the landlord recover a filing fee in the amount of \$50.00 from the tenant arising from a previous hearing. I decline to deal with that application as no evidence is before me that the landlord had been successful with that application.

Issues(s) to be Decided

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

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

Background and Evidence

This tenancy began on December 1, 2009 as a fixed term tenancy which was to expire on May 31, 2010. Rent in the amount of \$875.00 is due on the 1st of each month. On November 23, 2009, the tenants paid a security deposit in the amount of \$437.50.

The landlord's agent testified that the tenants were served with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities personally on February 2, 2010. A copy of that notice was provided as evidence in advance of the hearing, but contains no date that

the tenants are expected to vacate the rental premises. The agent further testified that the tenants vacated the unit sometime between March 1 and March 10, 2010.

The tenant failed to pay rent in full for the month of February, 2010, but paid \$360.00 on February 2, 2010. The landlord charged a \$25.00 fee for the late payment, as per the Tenancy Agreement, which was provided as evidence in advance of the hearing. The landlord is also claiming loss of revenue for the month of March, 2010.

Analysis

Based on the evidence of the landlord's agent, I find that the landlord has established a claim for \$1,415.00 in unpaid rent which includes a \$25.00 late fee for the month of February, 2010. The landlord is also entitled to recovery of the \$50.00 filing fee.

Conclusion

I order that the landlord retain the deposit and interest of \$437.50 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1,027.50. This order may be filed in the Small Claims Court and enforced as an order of that Court.

The landlord's application to recover a filing fee from a previous application is hereby dismissed with 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 31, 2010.

Dispute Resolution Officer