

## **DECISION**

Dispute Codes      MNR, MNSD, FF

### Introduction

This hearing dealt with the landlord's application for a Monetary Order for unpaid rent, retention of the security deposit and recovery of the filing fee. The tenants did not appear at the hearing. The landlord provided evidence that each tenant was served with notice of this hearing via registered mail sent to the address at which the tenants reside. The landlord confirmed the address of the tenants by following the tenants to their new address when they vacated the rental unit and the caretaker subsequently confirmed their residence. The registered mail was unclaimed by the tenants. I was satisfied the landlord served the tenants in a manner that complies with the requirements of the Act and I proceeded to hear from the landlord without the tenants present.

### Issues(s) to be Decided

1. Has the landlord established an entitlement to unpaid rent?
2. Retention of the security deposit.
3. Award of the filing fee.

### Background and Evidence

The landlord provided evidence as follows. The month-to-month tenancy commenced May 1, 2009. The tenants were required to pay rent of \$725.00 per month and paid a \$175.00 security deposit on May 4, 2009. The tenants did not pay rent for September or October 2009. The landlord tried reaching a payment arrangement with the tenants and income assistance up to October 20, 2009; however, a satisfactory arrangement could not be reached. The landlord served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent on October 20, 2009. The tenants vacated the rental unit on

November 1, 2009. The landlord was unable to rent the unit for November 2009 despite advertisements.

In making this application, the landlord is seeking to recover unpaid rent for September, October and November 2009 in the total amount of \$2,175.00 and retain the security deposit in partial satisfaction of this amount.

As evidence for the hearing, the landlord provided a copy of the 10 Day Notice issued October 20, 2009. The 10 Day Notice indicates the notice was served in person and had an effective date of October 30, 2009. The 10 Day Notice indicates the amount of rent outstanding was \$1,637.50 as of October 1, 2009. Also provided as evidence are print-outs of the ledger for the rental unit. The landlord explained that a written tenancy agreement was not prepared by the former property manager.

### Analysis

Under the Act, a tenant is required to pay rent when due in accordance with the terms of their tenancy agreement. In this case, there is a verbal tenancy agreement and the details provided in the tenants' ledger and 10 Day Notice satisfy me that the terms of the tenancy are as testified by the landlord. Therefore, I accept that the tenants were required to pay the landlord \$725.00 per month and that they failed to do so for the months of September and October 2009.

Although the 10 Day Notice includes the unpaid portion of the security deposit in the amount of rent owing, I find the 10 Day Notice otherwise valid. Accordingly, I am satisfied that the tenancy legally ended on October 30, 2009 and the tenants continued to occupy the rental unit until November 1, 2009. I find the tenant's actions and failure to give the landlord sufficient notice to end the tenancy the caused the landlord to incur a further loss of rent for the month of November 2009.

In light of the above findings, the landlord is entitled to recover unpaid rent and loss of rent from the tenants for the months of September through November 2009 in the amount of \$2,175.00. I award the landlord the filing fee paid for this application and I authorize the landlord to retain the security deposit in partial satisfaction of the rent owed to the landlord. The landlord is provided a Monetary Order calculated as follows:

Unpaid rent – September and October 2009	\$ 1,450.00
Loss of rent – November 2009	725.00
Filing fee	50.00
Less: security deposit	<u>(175.00)</u>
Monetary Order for landlord	\$ 2,050.00

The landlord must serve the Monetary Order upon the tenants and may file it in Provincial Court (Small Claims) to enforce as an Order of that court.

### Conclusion

The landlord is authorized to retain the tenants' security deposit in partial satisfaction of the rent owed the landlord and the landlord has been provided a Monetary Order for the balance of \$2,050.00 to serve upon the tenants.

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.

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Dispute Resolution Officer