

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing dealt with the landlord's amended application for an Order of Possession and a Monetary Order for unpaid rent. The tenant did not appear at the hearing. The landlord provided evidence that the tenant was notified of the amended application by registered mail sent to the rental unit address on January 19, 2010. The landlord testified that the tenant was still living in the rental unit at the time of mailing but the registered mail was unclaimed by the tenant. Based upon the evidence before me, I am satisfied the tenant was sufficiently served with notification of this hearing and I proceeded to hear from the landlord without the tenant present.

The landlord withdrew the request for an Order of Possession as the tenant has vacated the rental unit. Accordingly, I do not provide an Order of Possession with this decision.

The landlord requested the application be amended to request retention of the tenant's security deposit in partial satisfaction of the amount claimed by the landlord. I did not find this request prejudicial to the tenant and I accepted the amendment.

Issues(s) to be Decided

1. Has the landlord established an entitlement to unpaid rent for January 2010, loss of rent for February 2010, and a late fee?
2. Is the landlord authorized to retain the security deposit?
3. Award of the filing fee.

Background and Evidence

The landlord testified as follows. The fixed term tenancy commenced November 19, 2009 and the tenant was required to pay rent of \$700.00 on the 1st day of every month. The tenant paid a \$350.00 security deposit in two instalments received October 27 and December 2, 2009. The tenant was deficient \$10.00 in rent for December 2009 and did not pay rent for January 2010. The landlord personally served the tenant with a *10 Day Notice to End Tenancy for Unpaid Rent* on January 5, 2010. The Notice had an effective date of January 15, 2010; however, the tenant did not vacate by that date. Rather, the tenant did not vacate until January 21, 2010.

In making this application, the landlord is seeking to recover unpaid rent of \$710.00 for December 2009 and January 2010, a late fee of \$25.00 for January 2010 and loss of rent for February 2010. The landlord claims that efforts to re-rent the unit commenced right after the rental unit was vacated; however, the rental unit has not yet been rented due to a high vacancy rate in the area.

As evidence, the landlord provided a copy of the tenancy agreement, the 10 Day Notice, and a summary of events.

Analysis

Upon review of all the evidence before me, I find the landlord entitled to recover the unpaid rent as claimed and the late fee for January 2010 under the terms of the tenancy agreement. I also accept that the landlord took reasonable action to minimize the loss of rent for February 2010 and I award the landlord loss of rent for February 2010.

As the landlord was successful in this application I award the filing fee to the landlord. The landlord is authorized to retain the tenant's security deposit in partial satisfaction of the rent owed the landlord. I provide the landlord with a Monetary Order for the balance remaining, calculated as follows:

Unpaid rent – December 2009	\$ 10.00
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Unpaid rent – January 2010	700.00
Late fee – January 2010	25.00
Loss of rent – February 2010	700.00
Less: security deposit	<u>(350.00)</u>
Monetary Order for landlord	\$ 1,085.00

The landlord must serve the Monetary Order upon the tenant and may enforce the Monetary Order through Provincial Court (Small Claims) as an Order of that court.

Conclusion

The landlord has been authorized to retain the tenant's security deposit and has been provided a Monetary Order for the balance of \$1,085.00.

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 10, 2010.

Dispute Resolution Officer