

## **Decision**

**Dispute Codes:** MNR, MNSD, FF

### **Introduction**

This hearing dealt with an application by the landlord for a monetary order as compensation for unpaid rent, retention of the security deposit, and recovery of the filing fee.

A previous hearing was held on January 8, 2010, and a decision and monetary order in favour of the landlord were issued on that same date. While agents representing the landlord participated in that hearing, the tenant did not appear. Subsequently, the tenant filed an application to review the decision and order on the basis that he was unable to attend the hearing, because of circumstances that could not be anticipated and were beyond his control. The dispute resolution officer considering the tenant's application satisfied himself that the tenant had not been served with a copy of the landlord's application for dispute resolution and the notice of hearing.

In the result, the present hearing was convened in order to consider anew the matters in dispute. Both parties participated in the hearing and gave affirmed testimony.

### **Issues to be decided**

- Whether the landlord is entitled to any or all of the above under the Act

### **Background and Evidence**

Pursuant to a written residential tenancy agreement, the month-to-month tenancy began on March 1, 2009. Rent in the amount of \$850.00 was payable in advance on the first day of each month. A security deposit of \$425.00 was collected on March 1, 2009.

Even while the tenancy agreement provides that no pets are permitted, the landlord observed during the period from approximately late September to early October 2009 that the tenant owned a dog. As a result, the landlord informed the tenant by letter

dated October 20, 2009 that he was required to pay a pet damage deposit by November 1, 2009. The tenant declined to pay the pet damage deposit, and the landlord issued a 1 month notice to end tenancy for cause dated November 4, 2009. The notice was served by posting on the tenant's door on that same date. A copy of the notice was submitted into evidence. The reason shown on the notice for its issuance is as follows:

Residential Tenancy Act only: security deposit or pet damage deposit was not paid within 30 days as required by tenancy agreement.

Further to the above, as the tenant failed to pay rent which was due on November 1, 2009, the landlord issued a 10 day notice to end tenancy for unpaid rent dated November 19, 2009. The notice was served by posting on the tenant's door on that same date. A copy of the notice was submitted into evidence. Subsequently, the tenant made no further payment toward rent and vacated the unit on or about November 22, 2009.

The landlord testified that it was not until early in December 2009 when the tenant's absence from the unit was confirmed. Further, the landlord testified that the unit was found to be in need of cleaning, painting and miscellaneous repairs. As a result, the landlord claims that advertising for new renters was delayed until early in January 2010. New renters were eventually found for the unit effective April 1, 2010.

During the hearing the parties respectfully exchanged views on some of the circumstances surrounding the dispute and undertook to achieve a resolution.

### **Analysis**

Section 63 of the Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the parties during the hearing led to a resolution. Specifically, it was agreed as follows:

- that the landlord will retain the tenant's security deposit in the full amount of \$425.00;

- that, further to the above, the tenant will pay the landlord the full amount of \$1,750.00; this amount is comprised of \$850.00 as unpaid rent for November 2009, \$850.00 as loss of rental income for December 2009, in addition to the \$50.00 filing fee;
- that the above amount of \$1,750.00 will be paid by way of 3 separate bank-issued money orders in the amounts and on the dates as follows:
  - (i) **\$600.00**: by not later than midnight, Friday, April 16, 2010;
  - (ii) **\$600.00**: by not later than midnight, Friday, May 14, 2010;
  - (iii) **\$550.00**: by not later than midnight, Friday, June 18, 2010.
- that the above particulars comprise full and final settlement of all aspects of the dispute arising from this tenancy for both parties.

### **Conclusion**

The decision and monetary order dated January 8, 2010 are hereby set aside.

I hereby order that the landlord may retain the tenant's full security deposit of **\$425.00**.

Following from the above and pursuant to section 67 of the Act, I hereby issue a monetary order in favour of the landlord in the amount of **\$1,750.00**. Should it be necessary, this order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: April 1, 2010

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Dispute Resolution Officer