

Decision

Dispute Codes: MNR, MNSD

Introduction

This hearing dealt with an application by the landlord for a monetary order as compensation for unpaid rent or utilities, and retention of the security deposit. As the tenant vacated the unit on or about April 5, 2010, the landlord withdrew the earlier application for an order of possession. The landlord's application does not include an application to recover the filing fee.

The landlord's agent participated in the hearing and gave affirmed testimony. Despite being served by way of registered mail with the application for dispute resolution and notice of hearing, the tenant did not appear.

Issues to be decided

- Whether the landlord is entitled to either or both of the above under the Act

Background and Evidence

There is no written tenancy agreement for this month-to-month tenancy which began on or about January 1, 2010. Rent in the amount of \$950.00 is payable in advance on the first day of each month. A security deposit of \$475.00 was collected on or about January 1, 2010.

Arising from rent which was unpaid when due on January 1 and February 1, 2010, the landlord issued a 10 day notice to end tenancy for unpaid rent dated February 5, 2010. The notice was served in person on the tenant on that same date. A copy of the notice was submitted into evidence. Subsequently, the tenant made no payment toward rent and vacated the unit on April 5, 2010, without providing a forwarding address. The landlord seeks a monetary order as compensation for unpaid rent for January, February and March 2010, in addition to bills for hydro and gas utilities.

Analysis

Based on the documentary evidence and undisputed testimony of the landlord's agent, I find that the tenant was served with a 10 day notice to end tenancy for unpaid rent or utilities dated February 5, 2010. The tenant did not pay the outstanding rent or utilities within 5 days of receiving the notice and did not apply to dispute the notice. The tenant is therefore conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. As earlier stated, the tenant vacated the unit on April 5, 2010, and the landlord therefore no longer seeks an order of possession.

As for the monetary order, I find that the landlord has established a claim of \$2,850.00. This is comprised exclusively of unpaid rent combined for January, February and March, 2010 (3 x \$950.00). I order that the landlord retain the security deposit of \$475.00 and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$2,375.00 (\$2,850.00 - \$475.00).

In the absence of a written tenancy agreement and copies of invoices / statements for any of the utilities, I hereby dismiss the aspect of the landlord's application concerning a monetary order for unpaid utilities.

Conclusion

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 **\$2,375.00**. This order may be served on the tenant, filed in the Small Claims Court and enforced as an order of that Court.

DATE: April 6, 2010

Dispute Resolution Officer