

DECISION

Dispute Codes MNR, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to obtain a Monetary Order for unpaid rent, for money owed or compensation for damage or loss under the *Act* and to recover the cost of the filing fee.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on January 27, 2010. Mail receipt numbers were provided in the landlord's documentary evidence. The tenant was deemed to be served the hearing documents on February 01, 2010, the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord appeared, gave affirmed testimony, was provided the opportunity to present his evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

- Is the landlord entitled to a Monetary Order for unpaid rent?
- Is the landlord entitled to a Monetary Order for money owed or compensation for damage or loss?

Background and Evidence

This tenancy started on February 01, 2009 and ended on October 15, 2009. The rent for this unit was \$700.00 per month and was due on the first of each month.

The landlord testifies that a previous hearing was held and an Order of Possession was issued which was to take effect two days after service of the Order on the tenant. The landlord testifies he served the tenant with this Order on September 11, 2009. The tenant failed to move from the rental unit in accordance with the Order of Possession. The tenant remained in the rental unit and did not pay any rent for September or October, 2009. The landlord seeks \$700.00 for unpaid rent for September and \$350.00 for the 15 days of unpaid rent for October, 2009.

The landlord states that he had to enforce the Order of Possession in the Supreme Court. The Supreme Court issued a Writ of Possession and the tenant was evicted by the Bailiffs on October 15, 2009. The landlord seeks to recover the cost of the Bailiff services to a sum of \$1,545.75 and the Supreme Court fees of \$111.00.

The landlord testifies that the tenant left a large amount of garbage and furniture behind which the landlord paid a contractor to clear. This involved three pick up truck loads to the dump at a cost of \$250.00.

The landlord has provided receipts for the bailiff, Supreme Court and garbage removal.

Analysis

The tenant did not appear at the hearing, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the tenant, I refer both Parties to section 57(3) of the *Act* which states: A landlord may claim compensation from an overholding tenant for any period that the overholding tenant occupies the rental unit after the tenancy is ended. I find the landlord was given an Order of Possession which should have taken effect two days after service on the tenant. The landlord has testified that he served the tenant in person on September 11, 2009 with this Order and as such

the tenant had until September 13, 2009 to leave the rental unit and the tenancy would have ended on that day. As the tenant did not move out until October 15 when he was evicted by the Court appointed Bailiffs I find the landlord has established his claim for rent for September, 2009 of **\$700.00**. I find the landlord has also established a claim for rent for 15 days in October, 2009. However, the landlord has calculated this amount to be \$350.00 and the actual amount of rent owed for 15 days would be **\$338.70**. I have adjusted the landlords claim accordingly.

I find the tenant was properly served with the Order of Possession on September 11, 2009. As the tenant did not abide by this Order of Possession the landlord had to enforce it in the Supreme Court and incurred additional costs to do so. Consequently, I find the landlord has established his claim for money owed or compensation for damage or loss under the *Act* and is entitled to a Monetary Order to recover the Supreme Court costs of **\$111.00** and the costs for the Bailiffs of **\$1,545.75**.

I further find the landlord incurred additional costs by having to remove garbage and furniture left behind at the rental unit. The landlord has provided sufficient evidence of these costs and consequently I find he is entitled to recover these costs of \$250.00 from the tenant.

As the landlord has been successful with his claim I find he is entitled to recover the \$50.00 filing fee paid for his application.

A Monetary Order has been issued to the landlord pursuant to sections 67 and 72(1) of the *Act* as follows:

Unpaid rent for September and October, 2009	\$1038.70
Bailiff fees	\$1545.75
Garbage removal	\$250.00
Filing fee	\$50.00
Total amount due to the landlord	\$2,995.45

Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$2,995.45**. The order must be served on the respondent and is enforceable through the Provincial Court as an order of that Court.

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: April 09, 2010.

Dispute Resolution Officer