

DECISION

Dispute Codes

For the tenant - OLC, FF

For the landlord - MNR, MNSD, MND, MNDC, FF

Introduction

This decision was due to deal with two applications for dispute resolution, one brought by the tenant and one brought by the landlord. Both files were due to be heard together.

The tenant requests an order for the landlord to comply with the Act, regulations or tenancy agreement and to recover the filing fee. The landlord requests a Monetary Order for unpaid rent, for damage to the rental unit, for money owed or compensation for damage or loss under the Act, regulations for tenancy agreement and to recover the filing fee. The landlord also seeks to keep the security deposit.

The landlord served the tenant in person with a copy of the Application and Notice of Hearing. The landlord also served the tenant with the amended application. I find that the tenant was properly served pursuant to s. 89 of the *Act* with notice of this hearing.

The hearing started at 1.30 p.m. as scheduled, however only the landlord dialled into the conference call. As the tenant did not appear no hearing into the merits of the tenants' application took place and the tenants' application is dismissed without leave to reapply.

The landlords appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form. 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 under the Act?
- Is the landlord entitled to a Monetary Order for damages to the rental unit?
- Is the landlord entitled to keep the security deposit?

Background and Evidence

This month to month tenancy started on July 01, 2009. Rent for this unit was \$1,300.00 per month and was due on the first of each month. The tenant paid a security deposit of \$650.00 on July 01, 2009. The tenant moved from the unit on or about March 15, 2010. The landlord received the tenants forwarding address in writing on or about April 09, 2010.

The landlord testifies that they gave the tenant a 10 Day Notice for unpaid rent on February 01, 2010 the landlord gave the tenant another 10 Day Notice for unpaid rent on March 02, 2010. The landlord states that the tenant owes a total amount of outstanding rent for November, 2009 of \$790.00; \$1,300.00 for December, 2009; \$5,200.00 for January, February, March and April, 2010. The landlord has provided a copy of the rent statement in evidence. The landlord states that the tenant also agreed to pay \$220.00 for late fees. The total amount of outstanding rent and late fees is now \$7,510.00

The landlord testifies that they gave the tenant a number of 24 hour notices to inspect the rental unit, but were prevented from doing an inspection by the tenant. The landlord claims the tenant gave the landlord a key that did not work and then told them he had a security alarm and failed to give them the code to disarm it. Eventually on March 09, 2010 the landlord threatened to bring the police with them to affect entry to the unit. The landlords state that at this time the tenant let the landlords into the property and they discovered a grow op in the rental unit. The landlords state the tenant told them he would have it out by the end of the week but they told him it must be removed by the next day. The landlords state that they decided to inform the Police. The landlord has provided photographic evidence of the grow up in the rental unit.

The landlord testifies that the City tagged the property and they had to carry out remedial work due to the tenants actions in operating a grow op on the property. The landlords testify that the cost of this work included \$1,000.00 for their labour costs to remove the tenants' garbage and items left at the unit to allow the remedial companies to carry out their work. In addition to this \$2,047.50 was paid to Healthy Homes for their work carrying out air clearance testing for pesticide/meth/ cocaine. A further \$4,910.49 was paid to Talon Environmental Services for their work in cleaning the property and providing negative air machines and other equipment. The

landlord has provided copies of the reports from these companies and invoices for the work carried out.

The landlord testifies that they will not be able to re-rent the property until other work is completed and the city has given the go ahead. The landlords testify that they have to paint the property and carry out another clean of the property before they can advertise it for rent. They estimate this work will take until August, 2010. The landlords seek a loss of rental income for May and June, 2010 if the property is still not ready to be re-rented.

The landlord seeks to keep the tenants security deposit of \$650.00 in partial satisfaction of their claim and recover the filing fee of \$100.00 from the tenant.

Analysis

The tenant did not appear at the hearing, despite having been given a Notice of the hearing and despite having filed an application himself. Therefore, in the absence of any evidence from the tenant, I find the tenant did not dispute the 10 Day Notices to end tenancy and did not pay the outstanding rent to the landlord. Consequently, I find the landlord is entitled to a monetary award for unpaid rent and late fees to the sum of **\$7,510.00** pursuant to section 67 of the *Act*.

With regard to the landlords application for damage to the rental unit I find the tenant did have a grow op in the unit and as such the landlord has incurred costs to prepare the unit for remedial work by two companies of \$1,000.00. The landlord has provided sufficient evidence to support their claim for damage to the rental unit and the remedial work required to make the unit rentable again to a cost of \$6,957.99. Consequently I find in favor of the landlords application for damage to the rental unit and find the landlord is entitled to a monetary award of **\$7,957.99** pursuant to section 67 of the *Act*.

With regard to the landlords claim for money owed or compensation under the Act, I find the landlord has provided sufficient evidence to support their claim for a loss of rental income for May, 2010 as the work continues to get the property back into a condition where it can be re-rented. Consequently, I find the landlord is entitled to a monetary award in compensation for a loss of income for May, 2010 of **\$1,300.00** pursuant to section 67 of the *Act*. However, the landlord also seeks to recover a loss of rental income for June, 2010. I feel the landlord is acting

prematurely at this time in seeking compensation for a loss of rental income for this additional month as the landlord is unsure at this time when the property will be ready to be advertised for rent again. Therefore, it is my decision that this section of the landlords claim is dismissed with leave to reapply for any additional month's loss of income.

The landlord has applied to keep the security deposit of **\$650.00** in partial satisfaction of the claim. I find the landlord is entitled to keep this amount and it will be offset against the amount the tenants owes to the landlord pursuant to section 38 (4)(b) of the *Act*.

I find as the landlord has been largely successful with their claim they are entitled to recover the **\$100.00** filing fee paid for this application from the tenant pursuant to section 72(1) of the *Act*.

A Monetary Order has been issued to the landlord for the following amount:

Outstanding rent	\$7,510.00
Loss of rental income for May, 2010	\$1,300.00
Filing fee	\$100.00
Subtotal	\$16,867.99
Less security deposit	(-\$650.00)
Total amount due to the landlord	\$16,217.99

Conclusion

I HEREBY FIND largely in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$16,217.99**. The order must be served on the respondent and is enforceable through the Provincial Court as an order of that Court.

The tenants' application is dismissed without leave to reapply.

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 26, 2010.

Dispute Resolution Officer