

DECISION

Dispute Codes OPR, MNR, FF

Introduction

This hearing was convened by way of conference call to deal with an application by the landlord for an Order of Possession, a monetary order for unpaid rent or utilities and an order to recover the filing fee from the tenant for the cost of this application. Despite having been served with the application for dispute resolution and notice of hearing by registered mail on March 19, 2010, the tenant did not participate in the conference call hearing.

At the outset of the hearing, the agent for the landlord testified that the tenant vacated the unit on or about March 31, 2010, and therefore, the application for an Order of Possession is dismissed as withdrawn.

Issues(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

Background and Evidence

This month-to-month tenancy began on August 1, 2008. Rent in the amount of \$1,750.00 is payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$875.00.

The tenant failed to pay rent in the month of February, 2010 and on February 6, 2010 the landlord served the tenant with a notice to end tenancy for non-payment of rent. The tenant provided the landlord with a cheque in the amount of \$900.00 on February 10, 2010, which was dated February 1, 2010 and was returned by the bank for non sufficient funds. The tenant provided another cheque on February 15, 2010 in the amount of \$850.00, which was also returned for non-sufficient funds. The tenant made 3 further payments: February 16, 2010 for \$500.00, February 24, 2010 for \$250.00 and

March 16, 2010 for \$600.00. The tenants vacated the unit on March 31, 2010, and the landlord is claiming \$2,150.00 in unpaid rent.

Analysis

Based on the landlord's testimony I find that the tenant was served with a notice to end tenancy for non-payment of rent. The tenant has not paid the outstanding rent and has not applied for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. As for the monetary order, I find that the landlord has established a claim for \$2,150.00 in unpaid rent. The landlord is also entitled to recovery of the \$50.00 filing fee.

Conclusion

I order that the landlord retain the deposit and interest of \$875.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1,325.00. This order may be filed in the Small Claims Court and enforced 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: May 10, 2010.

Dispute Resolution Officer