

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to obtain a Monetary Order for unpaid rent, and for money owed or compensation for loss or damage under the *Residential Tenancy Act (Act)*, Regulations or tenancy agreement. The landlord also seeks an Order to keep all or part of the security deposit and to recover the cost of the filing fee. At the outset of the hearing the landlord states that the tenant has moved from the rental unit and therefore he withdraws his application for an Order of Possession.

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 April 23, 2010. Mail receipt numbers were given in the landlord's testimony. The landlord states the hearing documents were not collected by the tenant and have been returned to the landlord. The tenant was deemed to be served the hearing documents on April 28, 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 loss or damage?
- Is the landlord entitled to keep the security deposit?

Background and Evidence

This tenancy started on October 01, 2009. This was a fixed term tenancy for one year and was due to expire on September 30, 2010. Rent for this unit was \$600.00 per month and was due on the first of each month. The tenant paid a security deposit of \$300.00 on September 01, 2009.

The landlord testifies that the tenant owed a balance of rent for January, 2010 of \$40.00. He paid rent for February and March and failed to pay rent for April, 2010 on the day it was due. On April 02, 2010 the landlord served the tenant with a 10 Day Notice to End Tenancy for unpaid rent. This Notice states that the tenant had five days to pay the rent; or apply to dispute the Notice; or the tenancy would end on April 12, 2010. The landlord testifies that the tenant did not pay the rent and moved from the rental unit on May 10, 2010. The property was re-rented on June 09, 2010.

The landlord seeks to recover the \$40.00 outstanding rent from January, 2010 and rent for April, 2010 of \$600.00. The landlord states that as this was a fixed term tenancy he also seeks a loss of revenue for May, 2010 of \$600.00 and for the first nine days of June, 2010 of \$180.00 until the unit could be re-rented.

The landlord states he would like an Order to keep the security deposit in partial payment of the outstanding rent and to recover the \$50.00 filing fee paid for his application.

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 have carefully considered all the evidence presented, including the affirmed evidence of the landlord; I find the tenant owes a balance of rent from January, 2010 of **\$40.00** and rent for April, 2010 of **\$600.00**.

RTB Policy Guideline #3 – Claims for Rent and Damages for Loss of Rent states that a landlord may elect to end a tenancy and sue the tenant for loss of rent. The damages to which a landlord is entitled is an amount sufficient to compensate the landlord for any loss of rent up to the earliest time the tenant could have legally ended the tenancy. Consequently, I find this was a fixed term tenancy which was due to expire on September 30, 2010 and the landlord managed to mitigate his losses by re-renting the unit on June 09, 2010; therefore, I find the tenant is responsible to compensate the landlord for a loss of rent for May, 2010 and for the nine days in June, 2010 to a sum of **\$780.00** until the time the unit was re-rented. The landlord has adjusted his claim accordingly to take account of the fact that he was able to re-rent the unit on June 09, 2010.

I Order the landlord to keep the tenants security deposit of \$300.00 in partial satisfaction of his claim pursuant to s. 38(4)(b) of the *Act*. I also find the landlord is entitled to recover the **\$50.00** filing fee from the tenants. A Monetary Order has been issued for the following amount pursuant to section 67 and 72(1) of the *Act*:

Unpaid rent for January and April, 2010	\$640.00
Filing fee	\$50.00
Subtotal	\$1,470.00
Less security deposit	\$300.00
Total amount due to the landlord	\$1,170.00

Conclusion

I HEREBY FIND in favor of the landlord's amended monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$1,170.00**. The order must be served on the respondents 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: June 11, 2010.

Dispute Resolution Officer