

DECISION

Dispute Codes OPR, MNR

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution for an order of possession and a monetary order.

The hearing was conducted via teleconference and was attended by the landlord only. The tenant did not attend.

This application was originally reviewed through the Direct Request process and a decision was issued on March 12, 2010 to grant an order of possession, as the tenant was deemed to have accepted the end of the tenancy based on the 10 Day Notice to End the Tenancy issued on February 19, 2010.

There was a question regarding the amount of rent owed to the landlord that could not be determined through the Direct Request process and the monetary portion of the landlord's application was set for a participatory hearing.

The hearing was originally convened on April 28, 2010. At that time the landlord had failed to serve the tenant of notice of the hearing and that hearing was adjourned to allow the landlord to serve the tenant.

The landlord testified that she had located the tenant and served the tenant with notice of this hearing by leaving the notice at the tenant's address. I am satisfied the tenant was sufficiently served for the purposes of the *Residential Tenancy Act (Act)*, in accordance with Section 71 of the *Act*.

Issues(s) to be Decided

The issue to be decided is the value of the unpaid rent the landlord is entitled for a monetary order for unpaid rent, pursuant to sections 46, 67, and 72 of the *Act*.

Background and Evidence

The landlord provided a copy of a tenancy agreement that was signed by the parties on January 1, 2010 for a 1 year fixed term tenancy beginning on January 1, 2010 for the monthly rent of \$1,450.00 due on the 1st of the month.

The landlord provided testimony confirming the tenant the tenant had failed to pay full rent for the month of January, 2010. The landlord confirmed the tenant paid only \$725 for the month of January 2010 and that the tenant did not pay any other rent at all for February, or March 2010, leaving a balance owing of \$3,625.00.

Analysis

Section 26 of the *Act* requires the tenant to pay rent when it is due according to the tenancy agreement. Section 46 of the *Act* allows the landlord to end a tenancy if the tenant fails to pay rent and should the landlord issue a 10 Day Notice to End the Tenancy for Unpaid Rent the tenant accepts the end of the tenancy if she fails to pay the rent in full within 5 days of receipt of the notice or file an Application for Dispute Resolution to dispute the Notice.

As noted in the decision of March 12, 2010, the tenant, by failing to pay the rent in full or file an Application for Dispute Resolution within 5 days of the issuance of the 10 Day Notice, the tenant was found to have accepted the end of the tenancy. The tenancy continued to live in the rental unit until the landlord had obtained the order of possession.

As such, I find the tenant is responsible for the rent for the period noted above.

Conclusion

I find that the landlord is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$3,625.00** comprised of rent owed.

This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) 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: June 23, 2010.

Dispute Resolution Officer