

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing was convened by way of conference call to deal with the landlord's application for an Order of Possession for unpaid rent or utilities, for a monetary order for unpaid rent or utilities and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, for an order permitting the landlord to retain the security deposit in partial satisfaction of the claim, and to recover the filing fee from the tenant for the cost of this application.

Despite being served with the Landlord's Application for Dispute Resolution and notice of hearing documents by registered mail on May 27, 2010, the tenant did not attend the conference call hearing.

At the outset of the hearing, the landlord advised that the tenant vacated the unit on or about May 30, 2010, and therefore an Order of Possession is not required. I therefore dismiss that portion of the landlord's application as being withdrawn.

Issues(s) to be Decided

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

Is the landlord entitled to a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

This fixed term tenancy began on January 1, 2010 and was to expire on December 31, 2010. Rent in the amount of \$1,575.00 was payable in advance on the 1st day of each

month. The landlord testified that the tenant resided in a different unit within the building prior to this tenancy, and the landlord collected a security deposit in the amount of \$750.00 on August 28, 2008 and then collected another \$35.00 on December 22, 2009.

The landlord further testified that a notice to end tenancy for unpaid rent was issued to the tenant on May 14, 2010 by posting it to the door of the rental premises for unpaid rent for the month of May, 2010. On May 30, 2010, the owner attended the unit to paint the doors after giving 24 hours notice to enter the unit, and when he arrived, the suite was vacant, and the tenant had abandoned the unit.

The unit was re-rented July 1, 2010, and the landlord is claiming rent for the month of May, 2010 in the amount of \$1,575.00 as well as liquidated damages in the amount of \$300.00 which is contained in the tenancy agreement, a copy of which was provided in advance of this hearing, as well as loss of revenue. The market value for the tenancy is now \$1,545.00, and the landlord is claiming the difference for the balance of the fixed term of the tenancy. The landlord is also claiming \$1,575.00 for the loss of revenue for the month of June, 2010.

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 \$1,575.00 for unpaid rent for the month of May, 2010. I also find that the landlord has established a claim for loss of revenue for the month of June, 2010 in the amount of \$1,575.00.

Because the parties entered into a fixed term tenancy, I find that the tenant is also required to pay the difference between what the landlord has been able to re-rent the unit for and the amount the tenant was obligated to pay under the tenancy agreement.

Therefore, the landlord is entitled to a monetary order for the difference from July 1, 2010 to December 31, 2010 in the amount of \$30.00 per month, or \$180.00. The landlord is also entitled to the \$300.00 claim for liquidated damages for the tenant's early termination, and recovery of the \$50.00 filing fee.

Conclusion

I order that the landlord retain the deposit and interest of \$788.87 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$2,891.13. 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: July 15, 2010.

Dispute Resolution Officer