



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

Decision

Dispute Codes: MNR, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a monetary order for rent owed and to retain the tenant's security deposit in partial satisfaction of the claim.

Although served with the Application for Dispute Resolution and Notice of Hearing in person on November 17, 2010, the tenant did not appear.

Preliminary Matter

At the outset of the hearing the landlord advised that, in addition to the \$850.00 rent owed for November, part of the landlord's claim also included \$850.00 *loss of rent* for December 2010. The landlord had also submitted photos and data relating to damages to the suite, which arrived as evidence on December 2, 2010.

However the intention to claim for damages and loss was not indicated on the landlord's original application. Moreover the evidence pertaining to these damages was submitted after the tenant had already vacated the unit, which occurred sometime in November 2010. It was determined that there was no way that the evidence had been served on the tenant.

Accordingly the landlord's hope to amend the application to include the loss of rent and other damages was dismissed with leave to reapply in future. .

Issue(s) to be Decided

The remaining issue to be determined based on the testimony and the evidence was whether or not the landlord was entitled to monetary compensation for unpaid rent for November 2010.

Background and Evidence

The landlord testified that the tenancy began in November 2009 with rent of \$850.00, at which time the tenant paid a security deposit of \$425.00. The landlord

testified that the tenant gave verbal notice near the end of October 2010 and then issued written notice on November 1, 2010 of her intent to vacate at the end of November 2010. The landlord stated that the tenant then failed to pay \$850.00 rent owed for November and vacated without leaving any forwarding address. Therefore the landlord was seeking rental arrears of \$850.00 owed for September 2010.

Analysis

Based on the testimony of the landlord, I find that the tenant did not pay \$850.00 rent due on November 1, 2010. Section 26 of the Act states that rent must be paid in full on the day it is due.

Based on the above facts I find that the landlord has established a total monetary claim of \$900.00 comprised of \$850.00 rent and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the tenant's security deposit of \$425.00 in partial satisfaction of the claim leaving a balance due of \$475.00.

Conclusion

I hereby grant the Landlord an order under section 67 for \$475.00. This order must be served on the Respondent 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: December, 2010.

Dispute Resolution Officer