



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes:

OPR, MNR, MNSD, FF

Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession for Unpaid Rent, a monetary Order for unpaid rent, to retain all or part of the security deposit, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution. At the hearing the male Landlord withdrew the application for an Order of Possession, a monetary Order for unpaid rent, and a monetary Order for the cost of filing this Application for Dispute Resolution. He stated that they wish to keep the security deposit in compensation for rent that is in arrears.

The male Landlord stated that he personally served the Tenant with copies of the Application for Dispute Resolution and Notice of Hearing on January 14, 2010. These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

Issue(s) to be Decided

The issue to be decided is whether the Landlord is entitled to keep all or part of the security deposit in compensation for unpaid rent, pursuant to sections 38 and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The male Landlord stated that this tenancy began on December 01, 2010; that the Tenant is required to pay monthly rent of \$925.00 on the first day of each month; and that the Tenant paid a security deposit of \$425.00 at the beginning of this tenancy.

The male Landlord stated that the Tenant did not pay rent for January of 2011.

The male Landlord stated that he personally served a Ten Day Notice to End Tenancy for Unpaid Rent, which had a declared effective date of January 14, 2011, to the Tenant on January 04, 2011. The female Landlord stated that the Tenant vacated the rental unit on January 14, 2011.

Analysis

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant entered into a tenancy agreement with the Landlord that required her to pay monthly rent of \$925.00 on the first day of each month. Section 26(1) of the *Act* requires tenants to pay rent to their landlord.

Based on the evidence provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant did not pay rent for January of 2011 when it was due on the first day of the month. As she is required to pay rent pursuant to section 26(1) of the *Act*, I find that the Tenant owes the Landlord \$925.00 in rent for January.

If rent is not paid when it is due, section 46(1) of the *Act* entitles landlords to end the tenancy within 10 days if appropriate notice is given to the tenant. In the absence of evidence to the contrary, I find that the Tenant was served with a Notice to End Tenancy on January 04, 2011 and that the tenancy ended on the basis of that notice on January 14, 2011.

Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$925.00, in compensation for unpaid rent from January of 2011. Pursuant to section 72(2) of the *Act*, I hereby authorize the Landlord to retain the Tenant's security deposit in partial satisfaction of that monetary claim.

As the Landlord has withdrawn the application for a monetary Order for the remainder of the outstanding claim, I will not be considering whether a monetary Order should be granted.

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: January 24, 2011.

Residential Tenancy Branch