

## **DECISION**

Dispute Codes      MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking a monetary order.

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

The landlord provided documentary evidence confirming the tenant was served with notice of this hearing via registered mail on October 21, 2010. Section 90 of the *Act* states a document sent by mail is deemed served on the 5<sup>th</sup> day after it is mailed. Based on the written submissions of the landlord, I find that the tenant has been served with the notice of hearing documents.

### Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to a monetary order for unpaid rent; for all or part of the security deposit and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 45, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord provided into evidence the following documents:

- A copy of a tenancy agreement signed by the parties on August 11, 2008 for a month to month tenancy beginning on September 1, 2008 for a monthly rent of \$1,205.00 due on the 1<sup>st</sup> of each month with a clause noting the landlord will charge a late payment fee for any late rent payments and a security deposit was paid of \$602.50;
- A copy of a document entitled "Parking changes" adding a stall to the tenancy at \$20.00 per month;
- A copy of a Notice of Rent Increase dated May 26, 2010 increasing the rent to \$1,260.00 plus the additional \$20.00 already included for parking;
- A copy of the tenant's notice to end the tenancy dated September 25, 2010 with ASAP/TBC entered into the estimated date of move and providing the tenant's forwarding address;

- A copy of a letter from the tenant dated September 27, 2010 from the tenant to the property manager stating the tenant will be vacating the property on October 8, 2010.

The landlord's agent confirmed in her testimony that the tenant was served with notice of this hearing at the address provided by the tenant in his notice to end the tenancy; confirmed the details of the tenancy as outlined in the tenancy agreement and rent increase notice; and confirmed the tenant vacated by October 8, 2010 and failed to pay any rent for October 2010.

### Analysis

Section 45 of the *Act* requires a tenant who wants to end their tenancy to do so by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice, and is the day before the day in the month that rent is payable under the tenancy agreement.

I accept that the tenant provided the landlord with a notice to end tenancy on September 25, 2010; with a follow up confirmation that the tenant will vacate by October 8, 2010; and that the tenant failed to pay rent for the month of October, 2010.

Section 53 of the *Act* stipulates that should a tenant give a notice to end the tenancy effective on a date that does not comply; the notice is deemed to be changed to the correct effective date as prescribed in the *Act*. As such, I find the tenant remained responsible for the payment of rent for the month of October, 2010.

### Conclusion

I find that the landlord is entitled to monetary compensation pursuant to Section 67 in the amount of **\$1,355.00** comprised of \$1260.00 rent owed; \$20.00 parking owed; \$25.00 late payment fees and the \$50.00 fee paid by the landlord for this application.

I order the landlord may deduct the security deposit and interest held in the amount of \$606.03 in partial satisfaction of this claim. I grant a monetary order in the amount of **\$748.97**. 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: February 22, 2011.

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Residential Tenancy Branch