



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF MNDC MNR MNSD

Introduction

This hearing dealt with an application by the landlord for a monetary order for unpaid rent and an order allowing retention of the security deposit in partial satisfaction of the claim. Although served with the Application for Dispute resolution and Notice of Hearing sent by registered mail on March 11, 2011, the tenant did not appear for the hearing.

Issue(s) to be Decided

Is the landlord entitled to the requested orders?

Background and Evidence

This tenancy began on December 1, 1992 and ended on February 28, 2011. The rent was \$750.00 per month and a security deposit of \$275.00 was paid at the start of the tenancy. In early February, the tenant gave verbal notice that he would be vacating the rental unit effective February 28th. The tenant was advised that this verbal notice was too late and that any notice to end the tenancy had to be in writing. On February 26th, the tenant hand delivered to the landlord a letter dated January 28, 2011 that the tenant said was mailed to the landlord on that day. Mr. M testified that the landlord never received this letter and that in any event, even if the letter had been sent by regular mail on the 28th of January, it would have been deemed to have been received five days later which was still too late to be valid notice for the end of the month of February.

Analysis

The landlord has made a monetary claim in the amount of \$800.00 comprised of rent for March and the \$50.00 filing fee. The landlord makes this claim on the basis of Sections 45 and 52 of the Act which provide as follows:

Tenant's notice

45 (1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

Form and content of notice to end tenancy

52 In order to be effective, a notice to end a tenancy must be in writing and must

(a) be signed and dated by the landlord or tenant giving the notice,

(b) give the address of the rental unit,

(c) state the effective date of the notice,

(d) except for a notice under section 45 (1) or (2) [*tenant's notice*], state the grounds for ending the tenancy, and

(e) when given by a landlord, be in the approved form.

In the present case, pursuant to the above provisions, the tenant should have given written notice to the landlord by no later than January 31, 2011 and should have ensured that the notice was received by no later than January 31, 2011. In the absence of any evidence from the tenant that the notice was both in writing and served on time, I am satisfied that the tenants remained liable for the rent for March.

Conclusion

Based on the foregoing, I find that the landlord has established a monetary claim in the amount of \$800.00 comprised of \$750.00 in unpaid rent for March and the \$50.00 fee paid by the landlord for this application. I order that the landlord retain the deposit and interest of \$346.29 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$453.71. 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*.