

Decision

Dispute Codes: MNR, MNSD

Introduction

This hearing dealt with the landlord's application for a monetary order as compensation for unpaid rent or utilities / and retention of the combined security / pet damage deposits. The landlord participated in the hearing and gave affirmed testimony. Despite mail service of the application for dispute resolution and notice of hearing, the tenants did not appear.

A previous hearing was convened on March 24, 2011 in response to the tenants' application concerning this same tenancy. In the result, a monetary order was issued in favour of the tenants for \$200.00. In the decision the dispute resolution officer also addressed the "contravention of the Act" by the tenants in regard to the absence of proper notice to end the tenancy.

Issues to be decided

- Whether the landlord is entitled to either or both of the above under the Act

Background and Evidence

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the original year-long fixed term of tenancy began on October 15, 2009. Following the end of the fixed term, tenancy continued on a month-to-month basis. Security / pet damage deposits combined of \$1,000.00 total were collected at the outset of tenancy.

On or about March 9, 2011, the tenants gave notice of their intent to end the tenancy effective March 15, 2011. On or about March 15, 2011, the tenants provided the landlord with their forwarding address. At that stage, monthly rent was \$1,225.00.00, and was due and payable in advance on the 15th day of each month. The landlord seeks to retain the combined security / pet damage deposits, and have them applied against compensation sought for loss of rental income for the period from March 14 to April 14, 2011. The landlord's application was filed on March 28, 2011, or 13 days after the end of the tenancy. Despite advertising undertaken on-line immediately after the end of tenancy, new renters were not found until approximately 2 months later.

Analysis

Section 45 of the Act addresses **Tenant's notice**, and provides in part as follows:

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.

Based on the documentary evidence and the affirmed / undisputed testimony of the landlord, I find that the tenants' manner of giving notice to end tenancy does not comply with the above statutory provisions. I further find that despite the landlord's efforts to mitigate the loss of rental income, it was well beyond 1 month after tenancy ended when new renters were found for the unit.

As for the monetary order, following from all of the above, I find that the landlord has established entitlement to a claim of \$1,225.00. This is comprised exclusively of \$1,225.00 in loss of rental income for the period from March 15 to April 14, 2011. I order that the landlord retain the security / pet damage deposits combined of \$1,000.00, and I grant the landlord a monetary order under section 67 of the Act for the balance owed of \$225.00 (\$1,225.00 - \$1,000.00). The landlord did not apply to recover the \$50.00 filing fee.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$225.00**. This order may be served on the tenants, 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*.

DATE: July 12, 2011

Residential Tenancy Branch