

DECISION

Dispute Codes MNR, MNSD, FF

Introduction

This is an application filed by the Landlord for a monetary order for unpaid rent, to keep the security deposit and recovery of the filing fee.

Both parties attended the hearing and gave affirmed testimony.

Issue(s) to be Decided

Is the Landlord entitled to a monetary order for unpaid rent?

Is the Landlord entitled to retain the security deposit?

Background and Evidence

Both parties agree that there is a signed tenancy agreement dated to begin on April 1, 2011. The monthly rent was \$800.00 payable on the 1st of each month and a security deposit of \$400.00 was paid.

The Landlord has stated that the Tenant was served the notice of hearing documents and evidence by registered mail as shown in the submitted Canada Post registered mail receipt confirmations.

The Landlord states that the tenancy agreement was signed on March 7, 2011 and the Tenant was allowed to begin moving her belongings in on March 21, 2011. The Landlord states that the Tenant then gave verbal notice that she would not be moving into the rental unit on March 25, 2011. A written notice was requested. The Landlord receiving a letter dated April 1, 2011 from the Tenant stating her intent to not move in and requesting her security deposit back with her forwarding address in writing provided. The Landlord states that they are only seeking \$400.00 of the \$800.00 April rent that was lost as the Tenant put a "stop payment" on the April rent cheque. The Landlord states that they began advertising the rental unit after receiving the notice to vacate on April 2, 2011 in their mail box. The Landlord states that they were able to re-rent the unit for May 1, 2011. The Tenant confirms leaving her written letter on April 1, 2011 in the mail box. The Tenant states that the reason she did not move in because her insurance company would not cover her without a second exit door.

Analysis

I find based upon the affirmed testimony of both parties that the Tenant was properly served with the notice of hearing and evidence package submitted by the Landlord. The Tenant did not submit any evidence.

Based upon the direct testimony of both parties, I am satisfied that the Landlord has established a claim for unpaid rent. Both parties entered into a tenancy agreement. The Residential Tenancy Act, Section 16 states,

Start of rights and obligations under tenancy agreement

- 16 The rights and obligations of a landlord and tenant under a tenancy agreement take effect from the date the tenancy agreement is entered into, whether or not the tenant ever occupies the rental unit.

The Tenant failed to provide 1 months notice to end the tenancy. The Landlord tried to mitigate their loss by immediately re-advertising the unit for rent. Section 45 of the RTA states,

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.

The Landlord is entitled to the \$400.00 monetary order request. The Landlord is also entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$400.00 security deposit in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of \$50.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Landlord is granted a monetary order for \$50.00.
The Landlord may retain the security deposit.

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: July 25, 2011.

Residential Tenancy Branch