

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

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

The Landlord has attended the hearing by conference call and has given undisputed testimony. The Tenant has not attended or submitted any documentary evidence. The Landlord states that the Tenant was served with the notice of hearing and evidence package by Canada Post Registered Mail on October 18, 2012. The Landlord indicates that the package was sent to the Tenant's personal PO Box as all mail is delivered in this fashion as opposed to a residential address. The Landlord has submitted a copy of the Canada Post Registered Mail Receipt dated October 18, 2012 as confirmation that the notice of hearing and evidence package was sent. I am satisfied that the Tenant was properly served with the notice of hearing and evidence package submitted as deemed under the Act.

At the beginning of the hearing, the Landlord withdrew her application for an order of possession as the Tenant has vacated the rental.

Issue(s) to be Decided

Is the Landlord entitled to a monetary order?

Is the Landlord entitled to retain the security deposit?

Background, Evidence and Analysis

The Landlord submitted in her direct testimony that this was a verbal tenancy agreement on a month to month basis. The monthly rent was \$800.00 payable on the 1st of each month and a security deposit of \$400.00 was paid on July 1, 2011.

The Landlord states that the Tenant was served with a 10 day notice to end tenancy issued for unpaid rent dated October 3, 2012 on the same date by posting it to the rental unit door. The Landlord has submitted a signed proof of service document with a witness as confirmation. The notice states that rent of \$800.00 was due on October 1,

2012 and was unpaid. The effective date of the notice is October 16, 2012. The Landlord states that the Tenant vacated the rental unit on October 15, 2012 and has since the date of this hearing has failed to pay October 2012 rent. The Landlord seeks \$1,600.00 in unpaid October 2012 rent of \$800.00 and \$800.00 for loss of rental income for November 2012. The Landlord states that as soon as it was discovered that the Tenant vacated the rental unit on October 15, 2012 that she immediately placed ads to re-rent the unit. The Landlord states that she had two showings, but that there were no applicants and unit remains un-rented as of the date of this hearing.

I accept the undisputed testimony of the Landlord and find that the Tenant was properly served with the 10 day notice to end tenancy issued for unpaid rent and that October 2012 rent was unpaid. The Tenant did not pay the outstanding rent within 5 days of receiving the notice and did not apply for dispute resolution to dispute the notice and is therefore conclusively presumed to have accepted that the tenancy ended on the date of the notice. I also find that the Landlord immediately tried to mitigate any losses by advertising the rental unit and had two showings with no applicants. The Landlord has established a claim for \$800.00 in unpaid rent for October 2012 and the loss of rental income of \$800.00 for November 2012. 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 this claim and I grant the Landlord a monetary order under section 67 for the balance due of \$1,250.00. 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 \$1,250.00.
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: November 16, 2012.

Residential Tenancy Branch