



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, OPB, OPR

Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order. The tenant did not participate in the conference call hearing. The landlord provided evidence to show that she served the tenant with her original application for dispute resolution via registered mail sent to the rental unit on December 21, 2012 and with the amended application for dispute resolution sent via registered mail on January 9, 2012. The landlord also provided evidence to show that the registered letter mailed on January 9 was forwarded by Canada Post to the tenant's forwarding address. I found that the tenant had been properly served with notice of the claim against her and the hearing proceeded in her absence.

At the hearing the landlord advised that she had regained possession of the rental unit on January 12 and she withdrew her claim for an order of possession. The hearing proceeded to address only the monetary claim.

Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The landlord's undisputed testimony is as follows. The tenancy began on August 1, 2012 at which time the tenant paid a \$637.50 security deposit. The tenant was obligated to pay \$1,275.00 in rent each month in addition to \$90.00 for utilities. The tenant put a stop payment on her December rent cheque and the landlord served her with a 10 day notice to end tenancy for unpaid rent. The tenant's January rent cheque was returned for insufficient funds. The tenant did not vacate the rental unit until January 12, 2013. The landlord seeks to recover 2 months of unpaid rent and utilities.

Analysis

I accept the landlord's undisputed testimony and I find that the tenant was obligated to pay \$1,365.00 each month which represents \$1,275.00 in rent and \$90.00 for utilities. I find that the tenant failed to pay this amount in December 2012 and I further find that because the tenant overhired the rental unit in January, she prevented the landlord from re-renting the unit in January and caused the landlord to lose \$1,365.00 in income. I find that the landlord is entitled to recover these losses and I award the landlord \$2,730.00.

Although the landlord did not apply to retain the security deposit, at the hearing I asked whether she would like to apply the deposit to the amount awarded. The landlord confirmed that she would like the deposit to be applied. Section 72(b) of the Act permits me to apply a security deposit to any award made to a landlord and I find it appropriate to do so in these circumstances. I order the landlord to retain the \$637.50 security deposit in partial satisfaction of the claim and I grant her a monetary order under section 67 for the balance of \$2,092.50. 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 ordered to retain the security deposit and is granted a monetary order for \$2,092.50.

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: January 23, 2013

Residential Tenancy Branch

