



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: OPR, MNR, MNDC, MNSD, FF

Introduction

This hearing was scheduled in response to the landlord's application for an order of possession / a monetary order as compensation for unpaid rent / compensation for damage or loss under the Act, Regulation or tenancy agreement / retention of the security deposit / and recovery of the filing fee. Both parties attended and gave affirmed testimony. As the tenant has now vacated the unit, the landlord withdrew the application for an order of possession.

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

There is no written tenancy agreement in evidence for this tenancy which began on or about August 1, 2004. Monthly rent of \$900.00 is due and payable in advance on the first day of each month, and a security deposit of \$400.00 was collected. A move-in condition inspection report was not completed.

Arising from rent which was unpaid when due on September 1, 2013, the landlord issued a 10 day notice to end tenancy for unpaid rent dated September 30, 2013. The notice was served by way of posting on the unit door on that same date. A copy of the notice was submitted in evidence. Subsequently, the tenants made no further payment toward rent and they vacated the unit and returned the unit keys to the landlord around mid-November 2013. A move-out condition inspection report was not completed.

In addition to unpaid rent for September, October and November, the landlord seeks compensation for loss of rental income for December. The landlord claims that the unit requires cleaning and certain repairs before it can be advertised for rent. There are presently no particulars before me in relation to cleaning and repairs which the landlord

claims are required, and the landlord's application does not include a claim for compensation arising from damage to the unit, site or property.

Analysis

Based on the documentary evidence and testimony, I find that the tenants were served with a 10 day notice to end tenancy for unpaid rent dated September 30, 2013. The tenants did not pay any portion of the rent outstanding within 5 days of receiving the notice, and did not apply to dispute the notice. Thereafter, the tenants vacated the unit around mid-November 2013. During the hearing the tenant provided a current address.

As for compensation, I find that the landlord has established a claim of **\$2,750.00**:

\$900.00: *unpaid rent September*

\$900.00: *unpaid rent October*

\$900.00: *unpaid rent November*

\$50.00: *filing fee*

Section 72 of the Act addresses **Director's orders: fees and monetary orders**, in part:

72(2) If the director orders a party to a dispute resolution proceeding to pay any amount to the other, including an amount under subsection (1), the amount may be deducted

(b) in the case of payment from a tenant to a landlord, from any security deposit or pet damage deposit due to the tenant.

Following from all the above, I order that the landlord retain the security deposit of \$400.00, plus interest of \$14.17 [**total: \$414.17**], and I grant the landlord a **monetary order** under section 67 of the Act for the balance owed of **\$2,335.83** (\$2,750.00 - \$414.17).

In the absence of sufficient evidence, the landlord's application for loss of rental income for December 2013 is hereby dismissed with leave to reapply. Finally, the landlord has the option to apply for compensation for damage to the unit, site or property.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the landlord in the amount of **\$2,335.83**. 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*.

Dated: December 10, 2013

Residential Tenancy Branch

