



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OP MNR MNSD FF

Introduction

This hearing dealt with an application by the landlord for an order of possession, a monetary order and an order allowing retention of the security deposit in partial satisfaction of the claim. The hearing was conducted by conference call. The landlords called in and participated in the hearing. The tenant did not appear although she was personally served with the Application for Dispute Resolution and Notice of Hearing on January 22, 2014. The landlord advised that the tenant has moved out of the rental unit and an order for possession is no longer required.

Issues

Is the landlord entitled to a monetary order?

Is the landlord entitled to an order allowing retention of the security deposit?

Background and Evidence

This tenancy began on April 14, 2013. The rent is \$750.00 per month but the parties agreed that the tenant would pay \$346.15 biweekly due in advance on the first day of each month. The tenant paid a security deposit of \$375.00 at the start of the tenancy. The tenant did not pay rent for January when it was due. On January 7, 2014 the landlord served the tenant with a Notice to End Tenancy for non-payment of rent by placing it in the tenant's mail slot. After he received the Notice to End Tenancy the tenant gave the landlord a second cheque in payment of February rent, but it too was returned: "NSF". The tenant has not paid rent for February or for March and he did not file an application to dispute the Notice to End Tenancy.

Analysis

Section 46 of the Act requires that upon receipt of a Notice to End Tenancy for non-payment of rent the tenant must, within five days, either pay the full amount of the arrears indicated on the Notice or dispute the notice by filing an Application for Dispute Resolution with the Residential Tenancy Branch. If, as in the present case, the tenant does neither of these two things, the tenant is conclusively presumed to have accepted that the tenancy ended on the effective date of the Notice. The tenant moved out at the

beginning of February. The landlord is attempting to re-rent the unit but thus far has not found a new tenant

Conclusion

Monetary Order and Security Deposit - I find that the landlord has established a total monetary claim of \$1,125.00 for the outstanding rent for January and the first two weeks of February. The landlord is entitled to recover the \$50.00 filing fee for this application for a total award of \$1,175.00. I order that the landlord retain the deposit and interest of \$375.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$800.00. This order may be 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: February 12, 2014

Residential Tenancy Branch

