



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW HEARING DECISION

Dispute Codes MNR, OPR

Introduction

This hearing originally dealt with an application by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The landlord was successful in that application by way of the Direct Request Process. The tenant filed an application for Review Consideration and was successful in having the original decision and order suspended pending the outcome of this hearing. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

Should the original decision and order be set aside or confirmed?

Background and Evidence

The landlord gave the following testimony:

The tenancy began on or about February 1, 2014. Rent in the amount of \$970.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$485.00 and a pet deposit of \$100.00. The tenant failed to pay rent in the month(s) of March and on March 2, 2014 the landlord served the tenant with a notice to end tenancy. The tenant further failed to pay rent in the month(s) of April. The landlord stated that the tenants moved out by April 11, 2014. The landlord stated that the tenants paid the rent for the

month of March but did not make a payment for April. The landlord stated that the tenants March cheque “bounced” and that payment was made well outside of the five day legislated timeline. The landlord stated that the final payment for March was made on March 20, 2014. The landlord disputes the tenants’ allegation that he had obtained the decision and order by fraudulent means. The landlord stated that the tenants were in fact the ones “hiding from me to pay” and that he is seeking a monetary order for the month of April for \$970.00.

The tenant gave the following testimony:

The tenant stated that the landlord has committed fraud and is reviewing his options at this time. The tenant agrees that full payment was made on March 20, 2014 as he had made an oversight and shorted the landlord twenty dollars. The tenant stated that he has never been served notice or been informed of proceedings. The tenant stated that the only reason they became aware is that they were filing for dispute resolution in regards to other issues and it was brought to their attention. The tenant stated that he moved out by April 8, 2014 and feels that he should not be obligated to pay anything for the month of April based on the way the landlord conducted his business and forced him from his home.

Analysis

At the outset of the hearing both parties advised that the tenants have vacated the unit, and that the order of possession is no longer an issue, accordingly I need not make a finding in that regard. The parties made reference to the return of security deposits and monetary compensation for other issues. It was explained to the parties that this hearing would only address the original application as made by the landlord under the Direct Request Process and that the parties are at liberty to file a separate application to address any outstanding issues.

In regards to the landlords’ monetary claim, I accept the landlord’s testimony and I find that the tenant was served with a notice to end tenancy for non-payment of rent. 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 effective date of the notice. In the tenants own testimony he acknowledged full payment on March 20, 2014, well outside the legislated timeline. In addition the tenant stated that he had not made any payment for the month of April. As for the monetary order, I find that the landlord has established a claim for \$970.00 in unpaid rent. The monetary order will remain in the same amount as originally ordered but will now represent the unpaid rent for the month of April. The original decision and monetary order are confirmed.

Conclusion

The original decision and monetary order are hereby confirmed and remain in full effect and force.

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: May 21, 2014

Residential Tenancy Branch

