



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution 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. Although served with the Application for Dispute Resolution and Notice of Hearing on the Tenant did not appear. The landlord advised that the tenant had moved out of the rental unit so an order of possession was not required.

Issue(s) to be Decided

Is the landlord entitled to a monetary order and, if so, in what amount?

Background and Evidence

This tenancy commenced November 1, 2012 as a one year fixed term tenancy and has continued thereafter as a month-to-month tenancy. The monthly rent of \$1100.00 was due on the first day of the month. In addition, the tenant was responsible for the utilities. The tenant paid a security deposit of \$550.00 and a pet damage deposit of \$250.00.

The landlord testified that the tenant was served with a 10 Day Notice to End Tenancy for Non-Payment of Rent when it was posted at the rental unit on February 4, 2015. That document includes information advising the tenant that the notice is cancelled if the tenant paid the arrears of rent within five days. It also advises that the tenant has five days to dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. The landlord testified that the tenant did neither.

The landlord testified that the tenant had not paid the rent for January or February and only \$600.00 towards the December rent and the arrears total \$2700.00. In addition the tenant had not paid the most recent invoice for utilities from the local municipality in the amount of \$205.91.

The tenant moved out of the rental unit on February 27, 2015. He did not give the landlord any advance notice of his intention to move and he did not advise the landlord that he had moved until March 3. The landlord has not found a tenant for March and asks for loss of rental income for March.

Analysis

I find that the tenant is responsible for the arrears of rent for December, January and February in the amount of \$2700.00 and the unpaid utility bill in the amount of \$205.91.

With regard to the claim for the March rent the relevant law is summarized in *Residential Tenancy Policy Guideline 3: Claims for Rent and Damages for Loss of Rent* as: "In a month-to-month tenancy, if the tenancy is ended by the landlord for non-payment of rent, the landlord may recover any loss of rent suffered for the next month as a notice given by the tenant during the month would not end the tenancy until the end of the subsequent month."

The landlord's claim is subject to the statutory duty imposed by section 7(2) of the Residential Tenancy Act to do whatever is reasonable to minimize the damage or loss.

The effective date of the notice to end tenancy was February 17, 2015. If the tenant had moved out on that date and let the landlord know he was moving the landlord would have had an opportunity to find a new tenant for March 1 or March 15. However, because the tenant did not advise the landlord that he had moved until March 3 the landlord had no opportunity to re-rent the unit for March 1 and no realistic opportunity to re-rent it for March 15. Accordingly, I find that the tenant is also responsible for the March rent.

In summary I find that the landlord has established a total monetary claim of \$3875.91 comprised of arrears of rent in the amount of \$2700.00, loss of rental income for March in the amount of \$1100.00, unpaid utilities in the amount of \$205.91 and the \$50.00 fee paid by the landlord for this application. I order that the Landlord retain the security deposit of \$550.00 and pet damage deposit of \$250.00 in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of \$3075.91.

Conclusion

A monetary order in favour of the landlord in the amount of \$3075.91 has been granted. If necessary, it may be filed in the Provincial Court (Small Claims) 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: March 12, 2015

Residential Tenancy Branch

