



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION AND REASONS

Dispute Codes: OPR, MNR, FF

Introduction

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for orders as follows:

- An order of possession pursuant to section 55;
- A monetary order to recover unpaid rent and loss of income, pursuant to section 67;
- An order to recover the filing fee, pursuant to section 72.

The notice of hearing dated March 18, 2009 was served to the tenant on March 18, 2009, by posting it on the front door of the rental suite. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

At the start of the hearing, the landlord stated that the tenant had moved out on or about March 31, 2009 and therefore the landlord withdrew her application for an order of possession. The tenant did not leave a forwarding address.

Issues to be decided

Is the landlord entitled to a monetary order for unpaid rent, loss of income and filing fee?

Background and Evidence

The landlord testified that the tenancy started on November 01, 2005. The monthly rent was \$475.00 due in advance on the first day of the month. The tenant failed to pay rent for March 2009 and on March 09, 2009; the landlord served the tenant with a ten day notice to end tenancy. The tenant moved out at the end of March without paying rent for March and without cleaning the rental unit. The landlord stated that she spent the first two weeks of April cleaning the rental suite.

The suite is vacant as of this date and the landlord stated that she had not attempted to find a new tenant as she was waiting for the outcome of this hearing. The landlord is

claiming rent for March and loss of income for April and May. The landlord is also applying to recover the filing fee.

Analysis

Based on the undisputed sworn testimony of the landlord, I accept the landlord's evidence in respect of the claim. Section 26 of the *Residential Tenancy Act*, states that a tenant must pay rent when it is due under the tenancy agreement. In the absence of evidence to the contrary, I find that the tenant did not pay rent for March 2009.

Therefore, I find that the landlord is entitled to rent for March in the amount of **\$475.00**.

I find that the suite was not in a condition to be re rented before April 15, 2009 as the tenant had left it in an unsatisfactory condition. Therefore, I find that the landlord is entitled to loss of income for the first half of April in the amount of **\$237.50**.

Pursuant to section 7 of the *Residential Tenancy Act*, when a landlord is claiming compensation for a loss that resulted from the tenant's non compliance with the *Act*, the landlord must do whatever is reasonable to minimize the loss.

However, since the landlord did not attempt to re rent the suite after April 15, I find that the landlord did not take steps to minimize her loss and is therefore not entitled to the loss of income that she is claiming for the balance of April and for May.

I grant the landlord an order under section 67 of the *Residential Tenancy Act* for **\$762.50** which includes the filing fee of \$50.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

The landlord is granted a monetary order in the amount of **\$762.50**.

Dated May 11, 2009.

Dispute Resolution Officer