

# Dispute Resolution Services

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

## Decision

**Dispute Codes:** MNR MNSD OPR FF

## Introduction

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

1. A monetary order pursuant to Section 67;
2. An Order of Possession pursuant to Section 55;
3. An Order to retain the security and/or pet deposit pursuant to Section 38; and
4. An Order to recover the filing fee pursuant to Section 72.

I accept that the tenant was properly served with the Notice to End Tenancy and the Application for Dispute Resolution hearing package.

Both parties were given a full opportunity to be heard, to present evidence and to make submissions. Neither party requested an adjournment or a Summons to Testify.

On the basis of the solemnly sworn evidence presented at the hearing a decision has been reached.

## Background

The landlord testified that the tenant has left the rental unit and an Order of Possession is no longer required. With respect to the monetary claim, in the Application for Dispute Resolution the landlord claimed rent for December 2008 and January 2009 each in the sum of \$1,250.00 for a total of \$2,500.00. At the hearing of this matter the landlord testified that on January 1, 2009 she was able to recover \$500.00 of the rental arrears by making a charge on the tenants' credit card. The landlord testified that having recovered that sum she now wished to reduce her request for rental arrears to

\$2,000.00. The landlord testified that the tenants signed a lease which was to end January 31, 2009 however they abandoned the rental unit on November 30, 2008. The landlord testified that the tenants could have taken steps to re-rent the premises but did not do so.

The tenants dispute needing to pay rent for December of January. The tenants argued that the landlord thwarted their attempts to re-rent the rental unit by insisting on them returning the keys to her on November 30, 2008. Without the keys the tenants were unable to show the rental unit to any prospective tenants.

The landlord agreed that she took the rental unit keys from the tenants but stated that the tenants could have called her and asked her to show the unit to any prospective tenants they may have found.

The landlord testified that they have a lot of vacant units in the rental building.

## **Findings**

### **Monetary Order**

When a landlord makes application for loss of rental income a landlord is required to demonstrate mitigation of the losses claimed. I find that the landlord has given insufficient evidence of mitigation in this matter. I therefore dismiss the landlord's claim for rental arrears in the sum of \$2,000.00. I also dismiss the landlord's claim for \$19.95 for recovery of registered mail fees paid as a cost to the landlord of doing business.

### **Security Deposit**

Having made no monetary order in favour of the landlord I order the landlord to return the tenants' security deposit with applicable interest forthwith.

### **Filing Fees**

Having been unsuccessful in this application, I dismiss the landlord's application to recover the filing fees paid.