



Dispute Resolution Services

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

DECISION AND REASONS

Dispute Codes:

MNSD, FF, MNDC

Introduction

This hearing dealt with an application by the landlord, pursuant to the *Residential Tenancy Act* for a monetary order to retain the security deposit pursuant to Section 38 and to recover the filing fee for this application pursuant to Section 72. The landlord also applied for compensation under the Act pursuant to Section 67, for loss of income for the month on December 2008, due to the tenant ending the tenancy without notice.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. On the basis of the solemnly affirmed evidence presented at the hearing, a decision has been reached.

Issues to be Decided

Is the landlord entitled to retain the security deposit and to recover the cost of filing this application? Is the landlord entitled to be compensated for the loss of income for the month of December 2008?

Background and Evidence

Based on the sworn testimony of both parties, the facts are as follows:

The tenancy started on November 20, 2006 and the tenant paid a security deposit of \$325.00 on November 02, 2006. The tenant informed the landlord by email on November 11, 2008 that the tenant would be moving out at the end of that month and did so on November 20, 2008.

The landlord stated that the landlord hired a property management company on the day the tenant served the notice to end tenancy and advertised separately in the local

newspapers. However, in spite of the landlord's efforts to mitigate the landlord's losses, the landlord was unable to find a tenant for the month of December. The landlord is claiming loss of income for December in the amount of \$650.00 and the filing fee in the amount of \$50.00. The landlord is also applying to retain the security deposit in partial satisfaction of this claim.

During the hearing the landlord agreed to settle this dispute if the tenant paid \$290.46 in full and final satisfaction of the landlord's claim. The tenant agreed to do so.

Analysis

Pursuant to Section 63 of the *Residential Tenancy Act*, the dispute resolution officer may assist the parties or offer the parties an opportunity to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order.

Since the parties reached a mutual agreement to settle this matter, I order that the landlord retain the security deposit and interest of \$334.54 and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$290.46. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord a monetary order in the amount of **\$290.46** in full and final satisfaction of the landlord's claim against the security deposit and for compensation under the Act with regard to the dispute rental unit.

Dated January 21, 2009.