



# Dispute Resolution Services

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

## **DECISION AND REASONS**

**Dispute Codes:** MNR, MNSD, MND, FF

### **Introduction**

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

- A monetary order for loss of income for November 2008 and for cleaning costs, pursuant to Section 67;
- An order to retain the security deposit plus interest pursuant to Section 38;
- An order to recover the filing fee pursuant to Section 72.

The landlord stated that the notice of hearing dated December 11, 2008 was served on the tenant on December 15, 2008, by registered mail. Despite having been served the notice of hearing, the tenant did not show up for the hearing. The landlord attended the hearing and was 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**

- The tenant moved out on November 01, 2008 without paying rent for November. Is the landlord entitled to a monetary order for loss of income for the month of November 2008 and for costs to have the carpet cleaned?
- Has the landlord met the landlord's burden of proof that loss was incurred due to the tenant's violation of the Act or tenancy agreement?
- Is the landlord entitled to retain the security deposit in satisfaction of this claim?
- Is the landlord entitled to the recovery of the fee to file this application?

### **Background and Evidence**

The landlord testified that the tenancy started on April 01, 2007 on a month to month basis. Prior to moving in, the tenant paid a security deposit of \$417.50. The monthly rent was set at \$775.00 due in advance on the first day of each month. The tenant served a notice to end tenancy on October 01, 2008 with an effective date of November

30, 2008. However, the tenant moved out on November 01, 2008 and informed the landlord of this change. A move out inspection was conducted on this day and the tenant signed to authorize the landlord to retain the security deposit towards the landlord's claim of cleaning costs and loss of income for November 2008. The landlord stated that subsequently, the tenant had a change of mind and advised the landlord that the tenant would not be paying the amount in the equivalent of rent for one month towards the landlord's loss of income for November 2008. The tenant did not dispute the cleaning costs.

The landlord testified that attempts were made to rent the suite by advertising on Craig's list and posting a sign outside the suite. A tenant was found for December 01, 2008.

The landlord is claiming the following:

1.	Carpet cleaning	\$85.00
2.	Loss of income for November	\$775.00
3.	Filing fee	\$50.00
	Total	<b>\$910.00</b>

### **Analysis**

Section 45 of the *Residential Tenancy Act* states that a tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice and is the day before the day in the month that rent is payable under the tenancy agreement. The tenant served the landlord with a valid notice to end tenancy with an effective date of November 30, 2008. However, the tenant moved out on November 01, 2008. The landlord attempted to mitigate the landlord's losses, by advertising for a tenant, but was not successful in finding a tenant for the month of November 2008. Hence the landlord is entitled to recover, from the tenant, a loss of income in the amount of one months rent.

The tenant did not dispute the cleaning costs and the landlord has submitted into evidence an invoice for the same. The landlord is also entitled to the filing fee in the amount of \$50.00.

Based on the undisputed sworn testimony of the landlord I find that the landlord has established a claim for damages in the amount of \$910.00, which is the amount the landlord is seeking on the application and includes the filing fee. I order that the landlord retain the security deposit and interest of \$429.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$481.00. 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 **\$481.00**

Dated February 06, 2009.

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Dispute Resolution Officer