

# Dispute Resolution Services

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

## **DECISION AND REASONS**

**Dispute Codes:** MNR, MNDC, MNSD, 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 rent for December 2008 and January 2009, loss of income for February 2009 and 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 February 03, 2009, was served on the tenant by registered mail. The landlord provided a tracking number for the package. I am satisfied that the tenant was adequately served the notice of hearing and 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.

### **Issues to be decided**

The tenant did not pay rent for December 2008 and moved out on January 31, 2009 without notice. Is the landlord entitled to a monetary order for rent for December 2008, and January 2009? Is the landlord entitled to compensation for loss of income for the month of February 2009 and cleaning costs?

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 August 01, 2008 for a fixed term of one year. On September 15, 2008, the tenant paid a security deposit of \$400.00. The monthly rent was \$800.00 due in advance on the first day of each month.

The landlord testified that the tenant failed to pay rent for December and after some verbal warnings, on December 28, 2009, the tenant gave the landlord a cheque in the

amount of \$2,300.00 which consisted of rent for December, January and part February. The landlord was unable to cash the cheque as it was written on a closed account.

On January 31, 2009, the tenant advised the landlord that he was moving out that same day. The landlord visited the rental unit and found the tenant in the process of moving out. The tenant did not pay the outstanding rent and did not clean the rental unit.

The landlord stated that a television set from the rental unit was missing and that the tenant had advised her that it was in the possession of the sub tenant. The landlord is claiming \$850.00 to replace the television. The landlord also stated that she had a verbal agreement with the tenant to do some repair work in lieu of rent for September. The landlord stated that this work was partially done and therefore the tenant owed \$400.00 for not having fulfilled his portion of the arrangement. The landlord did not provide any documentation to support this claim.

A clause in the tenancy agreement regarding late fees states that the tenant will be required to pay a late fee of \$50.00, if rent is not paid by the fifteenth of the month. The landlord has filed two receipts for carpet cleaning and janitorial services provided to the rent unit on February 06 and 09, 2009 respectively.

The landlord is claiming the following:

1.	Rent for December 2008	\$800.00
2.	Late fee for December	\$50.00
3.	Rent for January 2009	\$800.00
4.	Late fee for January	\$50.00
5.	Loss of income for February	\$800.00
6.	Carpet Cleaning	\$157.50
7.	Janitorial services	\$264.00
8.	Replace television	\$850.00
9.	Incomplete repair work	\$400.00
	<b>Total</b>	<b>\$4171.50</b>

### **Analysis**

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 December and January and therefore the landlord is entitled to rent for these months in the amount of \$1,600.00.

The tenant entered into a one year fixed term tenancy and moved out without notice on January 31, 2009. The unit was re-rented on March 01, 2009 and the landlord suffered a loss of income for February 2009. The tenant did not clean the unit and therefore, I find that the landlord is entitled to \$900.00 for loss of income for February and \$421.50 for cleaning costs.

Pursuant to section 7 of the *Residential Tenancy Regulations*, a landlord may charge a non refundable fee of not more than \$25.00 for a late payment of rent. I find that the landlord is entitled to a \$25.00 late fee per month for a total of \$50.00 for the months of December 2008 and January 2009.

The landlord has not filed evidence to support that the tenant is responsible for the missing television and that there was an arrangement for the tenant to carry out some repair work in lieu of rent for September. Therefore, I find that the landlord has not proven her claim for \$850.00 for the television and \$400.00 for incomplete repairs.

Based on the undisputed sworn testimony of the landlord I find that the landlord has established a claim in the amount of \$2921.50, which includes the filing fee. I order that the landlord retain the security deposit of \$400.00 plus interest of \$1.77 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 \$2,519.73. 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 **\$2,519.73**  
Dated April 15, 2009.

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Dispute Resolution Officer