

DECISION

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

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. Despite having been served with the application for dispute resolution and notice of hearing by registered mail on March 11, 2009, the tenant did not participate in the conference call hearing.

On May 13, 2008, the landlord collected a security deposit from the tenant in the amount of \$500.00. The tenancy began on June 1, 2008 for a fixed term ending May 31, 2009. Rent in the amount of \$1000.00 is payable in advance on the first day of each month. The tenant failed to pay rent in the month of November, 2008. In the last week of November, the resident manager found the tenant to have moved out of the rental unit. The landlord immediately started advertising to re-rent the unit by putting a sign outside of the rental unit and advertising in both the newspaper and the websites. The landlord was able to re-rent the unit for January 1, 2009.

The landlord is seeking to recover from the tenant outstanding rent for the month of November in the amount of \$1000.00. The landlord is also seeking to include a claim for loss of income for the month of December in the amount of \$1000.00. Based on the above, I find that the tenant was in breach of Section 45 of the *Residential Tenancy Act* by failing to give the required notice to end tenancy. I also find that the landlord has used his best efforts to mitigate the resulting loss of income. I therefore allow the claim for a further \$1000.00.

The landlord is also seeking to include a claim for liquidated damages in the amount of \$350.00. I note that clause 2 of the tenancy agreement provides for the payment of such damages by the tenant to the landlord in the event of the tenant terminating the fixed term tenancy before the end of the original term.

Based on the above, I find that the landlord has established a claim of \$350.00 as liquidated damages.

As for the monetary order, I find that the landlord has established a claim for \$1000.00 in unpaid rent, \$1000.00 in loss of income and \$350.00 in liquidated damages. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the security deposit and interest of \$504.77 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1895.23. This order may be filed in the Small Claims Court and enforced as an order of that Court.