

Dispute Resolution Services

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

DECISION

Dispute Codes:

MNR, MNSD, MNDC, FF

Introduction

This hearing was convened in response to an application by the landlord for a Monetary Order to recover rental arrears, money owed or compensation for damage or loss (loss of revenue) and inclusive of recovery of the filing fee associated with this application, and an order to retain the security deposit in partial satisfaction of the monetary claim.

Both the landlord and the tenant appeared and participated in the conference call hearing.

Issue(s) to be Decided

Is the landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on November 01, 2008 as a fixed term tenancy for twelve (12) months to October 31, 2009. Rent in the amount of \$1275 was payable in advance on the first day of each month. At the outset of the tenancy, the landlord collected a security deposit from the tenant in the amount of \$637.50. The landlord and tenant testified that the tenant vacated the rental unit February 28, 2009 following insufficient Notice to End by the tenant given to landlord via e-mail on February 27, 2009, and in breach of the fixed term Tenancy Agreement. The landlord was able to re-rent the property but at \$100 per month **less** than the original Tenancy Agreement, at \$1175 per month.

The landlord's amended claim is aptly captured in a letter to the tenant and the Branch dated June 12, 2009, and is further amended as follows:

| | | |
|--|-----------|----------------------------|
| March 2009 | \$1275 | rent as per Agreement |
| April 2009 | \$1275 | rent as per agreement |
| Landlord adjusted / mitigated Difference in rent | \$ 400 | to end of lease |
| Outstanding utilities / arrears for tenancy | \$ 631.91 | provided invoices |
| Advertising costs | \$ 83.92 | website and tenant checks |
| Fee for Early termination of lease (\$295 + gst) | \$ 309.75 | per clause 34 in Agreement |

Total of landlord's monetary claim is **\$3975.58**.

Analysis

Based on the landlord's testimony and that of the tenant **I find** the landlord is entitled to rent for March and April in the amount of \$2550. The landlord is also entitled to the mitigated / adjusted amount in respect to the difference in rent to lease end in the amount of \$400 and unpaid utilities in the amount of \$631.91. I further grant the landlord advertising costs of \$54.62 and the lease termination fee totalling \$309.75.

The landlord is not entitled to the claim for Tenant Verification Services of \$29.30. as **Section 15** of the Residential Tenancy act states as follows:

Application and processing fees prohibited

15 A landlord must not charge **a person** anything for

- (a) accepting an application for a tenancy,
- (b) processing the application,
- (c) investigating the applicant's suitability as a tenant, or
- (d) accepting the person as a tenant.

The quantum of the landlord's entitlements is **\$3946.28**.

As for the monetary order, I find that the landlord has established a total claim for **\$3946.28** in compensation. As the landlord is mostly successful in their claim, the

landlord is also entitled to recovery of filing fee in the amount of **\$50**, for a total entitlement of **\$3996.28**.

Conclusion

I order that the landlord retain the deposit and interest of \$639.09 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$3357.19**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated June 30, 2009