



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNDC NHRO, FF, MNSD

Introduction

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issues(s) to be Decided

This is a request for a monetary order for \$2400.00 and a request to retain the full security deposit plus interest towards this claim. The applicant is also requesting an order that the respondent bear the \$50.00 filing fee that was paid for this application for dispute resolution.

Background and Evidence

The applicant testified that:

- The tenant had a one year lease that ran until August the 31st 2009.
- The tenant requested that she be allowed out of the lease and was informed that she could, only on the condition that she would be responsible for any loss of rent and costs of re-renting that resulted.

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- The tenant paid rent to the end of April 2009 however he was unable to re-rent the unit until June 1, 2009 and therefore he lost the full rental revenue for May 2009 in the amount of \$1350.00.
- He also had to pay a fee to the rental Agent equal to one half months rent or \$625.00 as he is going to school in Montréal and could not rent the unit out himself. This is not a fee he would've had if the tenant had stayed to the end of the lease, as he had intended to spend his summer months off school finding a new tenant.
- He was also unable to re-rent the unit at the amount of \$1350.00 due to poor market conditions and had to reduced the rent to \$1250.00 and therefore has lost a further \$300.00 in rental revenue to the end of the term.
- At the end of the tenancy he had to have the carpets cleaned and deodorized at a cost of \$125.00 as there was a strong order of smoke and he has assumed that the tenant must have been smoking in the unit.

The applicant is therefore asking for an order as follows:

Lost rental revenue for May 2009	\$1350.00
Lost rental revenue for June through August, \$100.00 per month	\$300.00
Carpet cleaning and deodorizing	\$125.00
Filing fee	\$50.00
Total	\$2450.00

The applicant further requests he be allowed to keep the full security deposit plus interest towards the above claim and that a monetary order for the difference be issued.

The respondent's daughter testified that:

- She does not believe the landlord took reasonable steps to mitigate any loss as the landlord did not post ads to re-rent the unit until a full 16 days after the tenant had given the landlords a signed mutual agreement to vacate.
- She does not believe her mother should have to pay for May 2009 rent because although the landlord did not collect any rent for the month of May 2009 from the new tenant's, the new tenants were allowed to move into the rental unit much earlier than June 1, 2009.
- She does not believe that her mother should have to pay the rental Agent fee because this is a fee that the landlord would have had to pay at the end of the tenancy anyway.
- She does not believe that her mother should have to pay for any loss of rental revenue for having lowered the rental amount because she does not believe that the landlords made a reasonable attempt to re-rent the unit at the same amount her mother was paying.
- She does not believe that her mother should have to pay for carpet cleaning because the carpets were not clean when they moved in and her mother never smoked inside the rental unit.

Analysis

May 2009 rent

I will allow the claim for the full May 2009 rent even though the new tenants did move-in earlier than June 1, 2009, because they did not pay any rent for the month of May 2009. The new tenants were allowed in early because the rental unit was vacant and it's not unreasonable for landlord to allow tenant to move into a vacant unit even though the tenancy does not start until later on.

The rental agent fee

I also allow the claim for the rental Agent fee as this is a fee that the tenant would not have had, as I accept his claim that he had intended to attempt to re-rented the unit himself during his summer off from school.

Lost revenue due to reduction in rent

I also allow the claim for the lost rental revenue due to having to reduce the rent. I accept that the rent was reduced due to the poor rental market at the time and I find that the landlord did take reasonable steps to attempt to re-rent the unit.

Carpet cleaning

I dismissed the claim for carpet cleaning. Under the Residential Tenancy Act a tenant is responsible to maintain "reasonable health, cleanliness and sanitary standards" throughout the premises. Therefore the landlord might be required to do extra cleaning to bring the premises to the high standard that they would want for a new tenant. The landlord is not entitled to charge the former tenants for the extra cleaning. In this case it is my decision that the landlords have not shown that the tenants failed to meet the "reasonable" standard of cleanliness required

Filing fee

I further order that the respondent bear the \$ 50.00 cost of the filing fee paid for this hearing.

Conclusion

I have allowed \$2325.00 of the claim. I therefore order that the landlord may retain the full security deposit plus interest:

\$678.24



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I further Order that the Respondent pay to the Applicant the following amount:

\$1646.76

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: July 27, 2009.

Dispute Resolution Officer