



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MND, MNR, MNDC, MNDS, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for a Monetary Order for unpaid rent, damage to the unit, compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulation or agreement, an Order to keep all or part of the security deposit and to recover the cost of the filing fee.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on August 07, 2009. Mail receipt numbers were provided in the landlord's documentary evidence. The tenant was deemed to be served the hearing documents on August 12, 2009, the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord's agent appeared, gave affirmed testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*.

All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

- Has the landlord established a monetary claim due to the loss of rent, loss of income and damage to the rental unit?
- Is the landlord entitled to keep all or part of the security deposit and interest?
- Is the landlord entitled to recover filing fees from the tenant for the cost of the application?



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Background and Evidence

This tenancy started on February 01, 2007. This was a month to month tenancy and rent was \$962.00 per month due on the 1st of each month. The tenant paid a security deposit of \$462.50 on February 15, 2007.

The landlords' agent testifies that the tenant did not pay rent for December, 2008 of \$962.00 and abandoned the property some time around the middle of December, 2008. The landlord is claiming a loss of revenue for January, 2009 due to the state the tenant left the unit in making it un-rentable and due to the fact they could not re-rent it until February 01, 2009 despite making attempts to advertise it through many different avenues. The landlords' agent testifies that the tenant did not pay her city utility bill due on December 22, 2008 of \$192.37

The landlords' agent has submitted evidence concerning the repairs and cleaning that were required in the rental unit. These consist of:

- Painting at a cost of \$230.00
- Carpet cleaning at a cost of \$130.95
- Re-chalking the tub; repairing a loose bedroom door; installing new handrail to the basement; installing two door handles and door stops; repairing the entrance door frame; a new toilet was required due to a crack in the cistern and repairs to the dry wall at a cost of \$634.21.
- The unit was left in a dirty state and had to be cleaned throughout at a cost of \$300.00.

Analysis

Under the *Residential Tenancy Act* section 32(2) a tenant is responsible to maintain "reasonable health, cleanliness and sanitary standards" throughout the premises. The landlord has provided sufficient evidence to show that the tenant did not keep the rental unit in a reasonable state of cleanliness and repair and after the tenant had abandoned the unit the landlord discovered many areas that required cleaning and repair as noted above. In this instance the burden of proof is on the claimant to prove the existence of the damage or loss and

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that it stemmed directly from a violation of the agreement or contravention of the Act on the part of the tenant. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. Finally it must be proven that the claimant did everything possible to address the situation and to mitigate the damage or losses that were incurred.

I find that the landlord has provided sufficient evidence to support their claim for damage, cleaning and painting of the rental unit and they are able to meet all of the components of the above test. Therefore, in the absence of any evidence from the tenant, I find that the landlords' application is upheld and they are entitled to recover these costs to the amount of **\$1,268.16** pursuant to section 67 of the *Act*.

I also find the landlord is entitled to recover rent for December, 2008 of **\$962.00** and as the tenant abandoned the rental unit without cleaning or making good any repairs I also find the landlord is entitled to recover a sum of **\$962.00** for a loss of income for January, 2009. I also find in favor of the landlords claim that the tenant did not pay her City utility bills to a sum of **\$192.37**.

I Order the landlord to keep the tenants security deposit of **\$462.50** and accrued interest of **\$13.11** in partial satisfaction of their claim pursuant to section 38(1)(d) of the *Act*.

As the landlord has been successful in this matter they are entitled to recover the cost of **\$50.00** for filing their application pursuant to section 72(1) of the *Act*. A Monetary Order has been issued for the following amount:

Outstanding rent for December 2008	\$962.00
Loss of revenue for January, 2009	\$962.00
Outstanding Utility bill	\$192.37
Damages and cleaning	\$1,268.16
Filing fee	\$50.00
Less security deposit and accrued interest	(-\$475.61)
Total amount due to the landlord	\$2958.92



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Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$2,958.92**. The order must be served on the respondent and is enforceable through the Provincial Court as an order of that Court.

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: September 30, 2009.

Dispute Resolution Officer