

Dispute Resolution Services

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

DECISION AND REASONS

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

Introduction

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for an order of possession and a monetary order for loss of income, cost of repairs and the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of his monetary claim.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Since the tenant moved out on March 31, 2009, the landlord withdrew his application for an order of possession. Therefore, this hearing only dealt with the landlord's monetary claim for loss of income, cost of repairs and cleaning, filing fee and to retain the security deposit.

Issues to be decided

Is the landlord entitled to a monetary order to recover loss of income, cost of repairs and the filing fee? Is the landlord entitled to retain the security deposit?

Background and Evidence

The landlord testified that the tenancy started on April 01, 2002. The monthly rent at the time the tenancy ended was \$795.00 plus \$25.00 for parking and was payable in advance on the first of each month. The tenant paid a security deposit in the amount of \$362.00 on April 02, 2002.

Both parties agreed that a move in inspection was not conducted. The tenant stated that the unit was in need of repairs, at the time he moved in. The previous tenant had left behind furniture and the closet doors were damaged. Except for one window, there were no blinds or drapes in the rental unit.

The tenant also stated that in the winter of 2005/2006, there was a water leak which caused a lot of damage to the washroom walls. The tenant agreed that he had left bags of garbage in the suite. The tenant stated that the furniture that was left behind belonged to the previous tenant.

The landlord stated that the tenant moved out on March 31, 2009 without giving the landlord notice to end the tenancy. The landlord started showing the rental unit to prospective tenants immediately but was unable to find a tenant for the month of April and is claiming loss of income for that month.

The landlord is also claiming the cost of repairs to the blinds, closet doors, bathroom walls, plumbing, garbage removal, painting and cleaning in the amount of \$2068.78. The landlord has filed evidence by way of receipts, to support his monetary claim.

Analysis

Section 45 of the *Residential Tenancy Act*, states that a tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice and is the day before the day in the month that rent is payable under the tenancy agreement.

In this case the tenant did not give the landlord adequate notice to end the tenancy, thereby causing the landlord to suffer a loss of income for the month of April 2009. Accordingly, I find that the landlord is entitled to his claim of \$795.00 plus \$25.00 for parking, which is the loss that he suffered.

The tenancy lasted for seven years and the landlord purchased the rental unit three years prior to the start of the tenancy. The building is approximately 45 years old. The landlord could not confirm the condition of the rental unit at the start of the tenancy and the tenant stated that the rental unit was poorly maintained through the tenancy. While the landlord has filed evidence to confirm the cost of repairs, he is unable to establish that the damage was caused by the tenant's negligence and not by wear and tear over the period of ten years.

The tenant admitted that he left bags of garbage in the rental unit and therefore I find that the landlord is entitled to \$75.00 for the removal of these bags. Since the landlord has proven his case, I also find that he is entitled to the filing fee of \$50.00.

Over all, the landlord has established a claim for the following:

1.	Loss of income (rent plus parking)	\$820.00
2.	Removal of garbage	\$75.00
3.	Filing fee	\$50.00
	Total	\$945.00

I order that the landlord retain the security deposit of \$362.00 and accrued interest of \$12.82 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 \$570.18. 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 for **\$570.18**

Dated July 03, 2009.

Dispute Resolution Officer