



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD, FF, O

Introduction

This matter dealt with an application by the Landlord for a monetary order for unpaid rent, for cleaning expenses and to recover a leasing fee as well as the filing fee for this proceeding. The Landlord also applied to keep the Tenant's security deposit. The Landlord confirmed that the Tenant moved out at the end of May 2009 and therefore she did not require an Order of Possession.

The Landlord served the Tenant with a copy of the Application and Notice of Hearing by registered mail on August 12, 2009 to his forwarding address. According to the Canada Post online tracking system, a notification card was left for the Tenant on August 13, 2009 and on August 18, 2009 he refused service of the hearing package. I find that the Tenant was served as required by s. 89 of the Act and the hearing proceeded in his absence.

Issues(s) to be Decided

1. Are there arrears of rent and if so, how much?
2. Is the Landlord entitled to compensation for cleaning expenses and a lease fee?
3. Is the Landlord entitled to keep the Tenant's security deposit?

Background and Evidence

This fixed term tenancy started on October 1, 2008 and was to expire on September 30, 2009 however it ended on May 31, 2009 when the Tenant moved out. Rent was \$1,250.00 per month payable in advance on the 1st day of each month. The Tenant paid a security deposit of \$625.00 on September 16, 2008. The Landlord said the Tenant has arrears of rent of \$950.00 for April 2009 and did not pay rent for May 2009.

The Landlord claimed that at the end of the fixed term, her son would be returning from overseas to occupy the rental unit. However, as a result of the Tenant ending the tenancy early, the Landlord said she had to re-rent the unit to another the tenant and in doing so incurred an additional "lease up" fee of \$500.00. The "lease up" fee was a fee charged by the Landlord's property manager for re-renting the rental unit.

The Landlord also claimed that the Tenant left the rental unit unclean at the end of the tenancy and that as a result, she incurred cleaning expenses of \$125.00.



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Analysis

In the absence of any evidence from the Tenant to the contrary, I find that the Landlord is entitled to recover unpaid rent of \$2,200.00 and cleaning expenses of \$125.00.

The tenancy agreement does not contain a liquidated damages clause however it does contain a term (#17) that "should the Tenant break the tenancy agreement for any reason, the Tenant is responsible for all costs incurred to rent the property to new Tenants." In the circumstances, I find that the Landlord is entitled to recover a "lease up" fee of \$500.00 which was incurred as a result of the Tenant ending the tenancy early.

As the Landlord has been successful in this matter, I find that she is entitled to recover the \$50.00 filing fee for this proceeding as well as \$8.90 for registered mail expenses. I order the Landlord to keep the Tenant's security deposit plus accrued interest in partial payment of the damage award. The Landlord will receive a monetary order for the balance owing as follows:

Unpaid rent:	\$2,200.00
Cleaning expense:	\$125.00
Lease up fee:	\$500.00
Filing fee:	\$50.00
Registered mail:	<u>\$8.90</u>
Subtotal:	\$2,883.90
Less: Security deposit:	(\$625.00)
Accrued interest:	<u>(\$2.74)</u>
Balance owing:	\$2,256.16

Conclusion

A monetary order in the amount of **\$2,256.16** has been issued to the Landlord and a copy of it must be served on the Tenant. If the amount is not paid by the Tenant, the Order may be filed in the Provincial (Small Claims) Court and enforced 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 24, 2009.

Dispute Resolution Officer