



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with a claim by the landlord for a monetary order and an order to retain the security deposit in partial satisfaction of the claim. The tenant D.V. appeared on her own behalf. The landlord served the tenant J.P.A. with the application for dispute resolution and notice of hearing (the "Hearing Documents") by sending them via registered mail to the forwarding address which had been provided by the tenant D.V. At the hearing D.V. testified that she and the tenant J.P.A. had separated prior to the end of the tenancy and that he had never resided nor intended to reside at the forwarding address she had provided to the landlord. I find that the Hearing Documents have not been properly served on the tenant J.P.A. as he did not provide a forwarding address to the landlord and as he has not resided at the address to which the Hearing Documents were sent. The claim as against J.P.A. is dismissed with leave to reapply.

### Issues(s) to be Decided

Is the landlord entitled to a monetary order as claimed?

### Background and Evidence

The following facts are not in dispute. The tenancy began on or about May 1, 2008 at which time the tenant paid a \$700.00 security deposit. Rent was set at \$1,400.00 per month. On September 22, 2009 the tenant gave the tenant notice that she would be vacating the rental unit on September 30. The tenant did not clean the carpets at the end of the tenancy. The parties completed a condition inspection report at the end of

the tenancy but the tenant did not sign the report because she did not agree with the report.

The landlord's testimony is as follows. The landlord immediately began advertising to re-rent the unit but was unable to find tenants who could take occupancy until November 1. The landlord seeks to recover \$1,400.00 in lost income for the month of October. The landlord claimed a \$50.00 late payment fee for the month of August but provided no proof to substantiate that claim. The landlord testified that it cost \$106.00 to clean the carpets at the end of the tenancy and although the tenant claimed that the carpets had been cleaned just a few weeks prior to the time she gave her notice, the tenant provided no proof of this cleaning. The landlord testified that the unit was not sufficiently cleaned at the end of the tenancy and seeks to recover \$77.00 as the cost of cleaning and a further \$15.40 as the cost of cleaning supplies. The landlord testified that on the day the tenant vacated the unit, immediately outside the rental unit was left a number of mattresses and a bed frame. The landlord claims \$126.00 as the cost of removing the furniture. The landlord provided photographs showing the abandoned furniture as well as photographs showing a discoloured area near the ceiling of the rental unit and marks on the walls of the unit.

The tenant testified that she had verbally spoken to the landlord prior to the time she gave written notice to vacate and that that her brother had tried to rent the unit but had been told that the unit was unavailable. The tenant argued that the carpets did not require cleaning as she had cleaned them early in September. The tenant disputed that additional cleaning of the unit was required. The tenant denied having left any furniture outside the rental unit and claimed that anyone could have placed the furniture there.

### Analysis

Section 45 of the *Residential Tenancy Act* provides that to end a month-to-month tenancy, a tenant must provide one full month's notice in writing. In other words, to end the tenancy on September 30, the tenant would have had to give notice in writing no later than August 31. Landlords cannot accept verbal notice for the simple reason that

such notice is not binding on a tenant. If landlords were to secure new tenants on the basis of a verbal notice, the tenant who gave the notice could change her mind and the landlords would be unable to fulfill their contractual obligation to the new tenants. I find that the landlord acted properly in waiting until she had received written notice before advertising the rental unit. Section 53 of the Act provides that when a notice given by a tenant gives an end of tenancy date which does not comply with the requirements of the Act, the effective date of the notice is deemed to be changed to a date which complies with the required notice period. I find that the effective date on the tenant's notice was automatically changed by section 53 to end the tenancy on October 31. I find that the landlord acted reasonably to mitigate her losses and I find that the landlord is entitled to recover the rental income lost during the month of October. I award the landlord \$1,400.00. I dismiss the landlord's claim for a late payment fee of \$50.00 as this is more than double what is permitted under the Regulation.

As the tenancy lasted for more than a year, I find the tenant was obligated to shampoo the carpets at the end of the tenancy, pursuant to Residential Tenancy Policy Guideline #1. As the tenant did not give the landlord proof that she had done so, I find that the landlord acted reasonably in having the carpets shampooed and is entitled to recover the cost of that cleaning. I award the landlord \$106.00.

I find that the landlord has not proven that \$77.00 worth of cleaning of the rental unit was required. The landlord provided two photographs which indicate that one wall needed cleaning as well as another area near the ceiling. I find that this cleaning would have taken no more than half of one hour and I find that an award of \$10.00 will adequately compensate the landlord. I award the landlord \$10.00.

Although the tenant claimed that the furniture outside the unit was not hers, I find that on the balance of probabilities it is more likely than not that on the same day she vacated the unit, any furniture found immediately outside the unit would belong to the tenant. I find the landlord's claim for the cost of furniture removal to be reasonable and I award the landlord \$126.00.

As the landlord has been substantially successful I find she is entitled to recover the cost of the filing fee paid to bring this application and I award her \$50.00.

Conclusion

In summary, the landlord has been successful in the following claims:

Loss of income	\$1,400.00
Carpet cleaning	\$ 106.00
Cleaning	\$ 10.00
Furniture removal	\$ 126.00
Filing fee	\$ 50.00
<b>Total:</b>	<b>\$1,692.00</b>

I order that the landlord retain the \$700.00 security deposit and the \$7.46 in interest which has accrued to the date of this judgment in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$984.54. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated: February 08, 2010

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