

DECISION

Dispute Codes

For the tenants – MNDC, MNSD, FF

For the landlords – MNR, MNSD, FF

Introduction

This hearing was set to deal with two applications for dispute resolution, one brought by the tenant and one brought by the landlords. The tenant sought a Monetary Order for money owed or compensation for damage or loss under the Act, to recover double the security deposit and recover the filing fee. The landlord seek a Monetary Order for unpaid rent or utilities to keep the security deposit and to recover the filing fee.

The hearing commenced and the landlord appeared. The phone line was monitored for 10 minutes; however, the tenant did not dial into the conference call. Based on this I find that the tenant has failed to present the merits of her application and the tenants' application is dismissed without leave to reapply.

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 February 23, 2010. Mail receipt numbers were provided in the landlord's documentary evidence. The tenant was deemed to be served the hearing documents on February 28, 2010, the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord appeared, gave affirmed testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form. All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

- Is the landlord entitled to a Monetary Order to recover unpaid rent and utilities?

- Is the landlord entitled to keep all or part of the tenants' security deposit?

Background and Evidence

This month to month tenancy started on July 01, 2009. Rent for this unit was \$850.00 per month and was due on the first of each month. The tenant paid a security deposit of \$425.00 on June 19, 2009.

The landlord testifies that the tenant telephoned her on November 05, 2009 to inform her she was moving out of the rental unit. The landlord was just about to leave for her holiday and was unable to do the move out condition inspection or arrange to advertise the unit for rental. The tenant moved from the rental unit on November 17, 2009. The landlord was unable to re-rent the unit until January 01, 2010. The landlord seeks a loss of rental income for December, 2009 of \$850.00.

The landlord seeks a Monetary Order for the tenants' share of the BC Hydro bill. The landlord has provided a copy of this Hydro bill in evidence which shows an amount of \$439.18 owing. The tenants share would be \$219.59.

The landlord seeks to keep the tenants security deposit in partial satisfaction of her claim and to recover the filing fee paid for her application.

Analysis

The tenant did not appear at the hearing, despite having been given a Notice of the hearing and despite having filed her own application; therefore, in the absence of any evidence from the tenant, I find the tenant did not give one clear months written Notice to end the tenancy to the landlord pursuant to section 45(1) of the *Act*. Consequently, the landlord is entitled to a Monetary Order for the loss of rental income for December, 2009 to the sum of \$850.00.

I find the landlord is also entitled to recover the sum of \$219.59 for the unpaid share of the BC Hydro bill and is entitled to a Monetary Order for this amount pursuant to section 67 of the *Act*.

I Order the landlord to keep the security deposit of \$425.00 in partial satisfaction of her claim pursuant to section 38 (4)(b) of the *Act*.

As the landlord has been successful with her claim I find she is also entitled to recover the \$50.00 filing fee paid for her application from the tenant, pursuant to section 72(1) of the *Act*. A Monetary Order has been issued for the following amount:

Loss of rental income	\$850.00
Filing fee	\$50.00
Subtotal	\$1,119.59
Less security deposit	(-\$425.00)
Total amount due to the landlord	\$694.59

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 **\$694.59**. 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: April 08, 2010.

Dispute Resolution Officer