

## **DECISION**

**Dispute Codes**      MNR, MND, MNSD, FF

### **Introduction**

This hearing was convened by way of conference call this date to deal with the landlord's application for a monetary order for unpaid rent and damages, for an order permitting the landlord to retain the security deposit in partial satisfaction of the claim, and to recover the filing fee from the tenants for the cost of this application.

Despite being served with the Landlord's Application for Dispute Resolution and notice of hearing documents by registered mail on March 19, 2010, the tenants did not attend the conference call hearing.

### **Issues(s) to be Decided**

Is the landlord entitled to a monetary order for unpaid rent?

Is the landlord entitled to a monetary order for damages?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

### **Background and Evidence**

This fixed-term tenancy began on October 1, 2007, and was renewed for a further fixed term to expire on February 28, 2010. Rent in the amount of \$1,550.00 was payable in advance on the 1<sup>st</sup> day of each month. The landlord collected a security deposit from the tenants in the amount of \$747.50 on September 7, 2007.

The landlord's agent testified that the tenancy agreement, a copy of which was provided in advance of the hearing, states that the tenants are required to pay a late fee of \$25.00 for each monthly rent payment that is not received by the 1<sup>st</sup> day of each month, as well as a \$25.00 fee for each cheque returned by the bank for insufficient funds. The tenancy agreement also provides that an early termination fee of one half of one

month's rent is payable in the event that the tenants do not remain in the unit until the end of the fixed term.

The landlord's agent further testified that the tenants had provided post dated cheques to the landlord, and on November 5, 2009 the rental cheque was returned N.S.F. The tenants replaced that cheque with cash on November 23, 2009. She further stated that the December rent cheque was returned N.S.F. on December 7, 2009 which was replaced by the tenants in cash on December 11, 2009. The landlord further deposited the post dated cheques for January and February, 2010, both of which were returned N.S.F. by the bank.

On November 19, 2009 the tenants had verbally notified the landlord that the male tenant had been laid off from his place of employment, and they would be moving at the end of December, 2009, which was in breach of the tenancy agreement. The tenants vacated the unit on December 19, 2009.

The landlord's agent testified that on November 21, 2009, an advertisement was placed on their website, which also copies to other websites in the area, and the advertisement stays there until taken off by the landlord once the unit is re-rented. Advertisements were also placed on Craig's List and Kijiji, but she does not know when. The unit was re-rented on March 11, 2010, and the landlord is not claiming rent for the month of March, 2010.

The landlord's claim is for unpaid rent for the months of January and February, 2010 in the total sum of \$1,550.00 as well as the early termination fee totalling \$775.00, \$84.00 for carpet cleaning and \$96.60 for replacing the remote control for the garage door. The landlord is also claiming late fees and N.S.F. fees for the months of November, 2009 through February, 2010.

### **Analysis**

Having heard the evidence of the landlord's agent, I find that the landlord has established a claim for \$3,100.00 in unpaid rent, late fees in the amount of \$100.00,

N.S.F. fees in the amount of \$100.00, an early termination fee of \$775.00 and damages for carpet cleaning and replacing the remote control in the amount of \$180.00. The landlord is also entitled to recovery of the \$50.00 filing fee.

### **Conclusion**

I order that the landlord retain the deposit in the amount of \$747.50 and interest of \$14.83 in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$3,527.84. This order may be filed in the 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: July 09, 2010.

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Dispute Resolution Officer