



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

**Dispute Codes:** *MNR, MNDC, SS, FF*

### **Introduction**

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for a monetary order for unpaid rent, loss of income, cost of cleaning and garbage removal and the filing fee. The landlord requested that her application be amended to include an application to retain the security deposit in partial satisfaction of her claim.

The landlord testified that she served the notice of hearing by registered mail to the tenant, at the forwarding address provided by the tenant. The landlord provided a tracking number. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Is the landlord entitled to a monetary order for unpaid rent, loss of income, cleaning costs and for the filing fee? Is the landlord entitled to retain the security deposit?

### **Background and Evidence**

The landlord testified that the tenancy started on October 08, 2008. Prior to moving in, the tenant paid a security deposit of \$875.00. The monthly rent was \$1,750.00 payable on the 15<sup>th</sup> day of each month. The landlord stated that the tenant was often late on rent but did not miss a payment. However, the tenant failed to pay rent on January 15, 2010 and on February 15, 2010; the landlord served the tenant with a ten day notice to end tenancy.

The tenant moved without cleaning the unit and left behind garbage and some of her unwanted possessions. The landlord hired a truck to remove and dump the items left behind by the tenant. The landlord stated that she attempted to re-rent the unit, but decided not to when she received a bad reference from the ex landlord of a prospective tenant. The landlord listed the unit for sale and it sold in June 2010.

The landlord is claiming rent for January 15 to March 15 and loss of income for March 15 to April 15. The landlord is also claiming \$90.35 for the removal of the items left behind by the tenant and has filed receipts for a truck rental and dumping fee.

### **Analysis**

Based on the documentary and oral evidence of the landlord and in the absence of any contradictory evidence from the tenant, I find that the tenant moved out on February 28 without paying rent on January 15 and February 15. Therefore I find that the landlord has established a claim for two months rent in the amount of \$3,500.00.

Section 7 of the *Residential Tenancy Act* states that a landlord who claims compensation for loss that results from the tenant's non-compliance with the *Act*, the regulations or their tenancy agreement must do whatever is reasonable to minimize the loss.

The landlord has applied for loss of income for the period of March 15 to April 15. The landlord has not filed any evidence to support her attempts to re-rent the unit. In addition, the landlord testified that she lost interest in renting the unit and found a buyer for the unit in June 2010. Accordingly, I find that the landlord has not established a claim for loss of income for the period of March 15 to April 15, 2010.

The landlord has filed evidence to support her claim of \$90.35 for the removal of items left behind by the tenant. Therefore I find that the landlord is entitled to recover this cost. Since the landlord has established a major portion of her claim, she is entitled to the recovery of the filing fee in the amount of \$50.00.

Overall the landlord has established a claim of \$3,640.35. I order that the landlord retain the security deposit of \$875.00 and interest of \$3.05 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 \$2,762.30. 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 in the amount of **\$2,762.30**

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: August 13, 2010.

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Dispute Resolution Officer