

## **DECISION**

Dispute Codes      MNSD, MNDC, FF

### Introduction

This is an application by the Landlord for a monetary order to keep all or part of the security deposit and for money owed or compensation for damage or loss under the Act. The Landlord is also seeking recovery of the filing fee.

Both parties attended by conference call and gave affirmed testimony.

### Issues(s) to be Decided

Is the Landlord entitled to keep all or part of the security deposit?

Has the Landlord shown that the actions by the Tenant were negligent and caused the Landlord damage or loss?

### Background and Evidence

The Landlord states that this tenancy began on December 3, 2009 on a month to month basis and ended on September 2, 2010. The monthly rent was \$1,500.00 payable on or before the 1<sup>st</sup> of each month and a security deposit was made on December 3, 2009 of \$750.00 as indicated on the signed tenancy agreement in evidence. The hearing documents were served by registered mail on September 9, 2010. I note that the Tenant has submitted an evidence package that includes an application for dispute resolution, but has failed to properly file it for processing. Although the Tenant has served by registered mail their evidence package, an application has not been properly registered. As such, I will not be dealing with the Tenant's request.

The Landlord has submitted that verbal notice was given by the Tenant to vacate the rental unit on August 2, 2010. A written notice was later received at the Landlords request from the Tenant on August 7, 2010. The notice to end tenancy by the Tenant was for August 31, 2010. The Tenant states that she vacated the rental unit on August

31, 2010. I note the evidence submitted by the Landlord of the move-out inspection report was signed and dated by both parties on September 2, 2010.

The Landlord is seeking compensation for the month of September and October of 2010 in the amount of \$3,000.00 (\$1,500.00 month rent X2). The Landlord claims that reasonable efforts were made to re-rent by posting on a website called gyos.ca and placing ads in the local paper (\$10 per week) from August 7, 2010 until the this hearing date with no success. The Landlord is also seeking \$140.00 in miscellaneous cleaning costs, yard maintenance and attempts to clean a smoke smell in the rental unit. No evidence of costs or receipts was submitted. The Landlord is also seeking the recovery of the filing fee. The Tenant states that the rental unit has previously been vacant for long periods with no renters and cites that the unit was vacant for some months prior to her moving in.

### Analysis

I find that the Landlord has proven that the Tenant failed to give proper notice of vacating the residence until August 7, 2010 for August 31, 2010. Even if I were to allow that the Tenant gave verbal notice earlier that date was on August 2, 2010. I believe the Landlord's statement that the Tenant vacated the rental unit on September 2, 2010 as supported by the move out inspection report. I find that the Landlord has made reasonable attempts to mitigate the loss of September rent and that had the Tenant given proper notice the loss for October rent would still likely have taken place. I find that the Landlord is entitled to one months rent of \$1,500.00 in compensation for the lack of notice. The Landlord has not proven their claim of \$140.00 for miscellaneous costs in the clean-up of the rental unit. As the Landlord has been substantially successful in their claim, I am granting costs of \$50.00 for the recovery of the filing fee. I order that the Landlord retain the \$750.00 deposit in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of \$800.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Landlord is granted a monetary order for \$800.00.

The Landlord may retain the security deposit.

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*.

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