



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

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

Introduction

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for a monetary order to recover the costs of a refrigerator, loss of income and for the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of his claim.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be decided

Has the landlord established a claim for costs to replace the refrigerator, for loss of income and for the filing fee? Is the landlord entitled to retain the security deposit?

Background and Evidence

The tenancy started on June 01, 2004 and ended on July 02, 2010. The rent was \$650.00 due in advance on the first day of each month. The tenant paid a security deposit in the amount of \$325.00.

The landlord stated that during the tenancy, the tenant removed the refrigerator and stove and placed these appliances outside in the yard. She replaced them with her appliances which she took with her when she moved out. The landlord stated that she did not ask for permission to do so. The tenant argued that she did so with the landlord's permission. The landlord replaced the refrigerator with a used one for the amount of \$336.00. The landlord has filed receipts as evidence of the cost incurred to purchase it.

On June 15, 2010, the tenant gave the landlord a back dated notice to end tenancy effective June 30, 2010. The tenant stated that in May, she verbally informed the landlord that she would be moving out at the end of June, but gave him the written notice much later. The tenant also stated that she had moved out all her belongings by June 30 and returned for two days to clean up. She agreed that she handed over the unit on July 02, 2010. The landlord is claiming rent for the month of July for lack of adequate notice and for the tenant's overstay.

The landlord is claiming the following:

1.	Replace refrigerator	\$336.00
2.	Loss of income	\$650.00
3.	Mailing costs	\$14.06
4.	Filing fee	\$50.00
	Total	\$1,050.06

Analysis

Based on the sworn testimony of both parties, I accept the landlord's evidence that he incurred a cost of \$336.00 to replace one of the two appliances that the tenant removed from the rental unit. Therefore I find that the tenant is entitled to this amount.

Section 45 of the *Residential Tenancy Act*, states that a tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than one month after the date the landlord receives the notice and is the day before the day in the month that rent is payable under the tenancy agreement.

Based on the testimony of both parties, I accept the landlord's evidence in respect of the claim. In this case the tenant did not give the landlord adequate notice to end the tenancy and overstayed two days, thereby causing the landlord to suffer a loss of income for the month of July 2010. Accordingly, I find that the landlord is entitled to **\$650.00**, which is the loss that he suffered.

The legislation does not permit me to award any litigation related costs other than the filing fee. Therefore the landlord's claim for mailing costs is dismissed. The landlord has proven his case and is entitled to the recovery of the filing fee.

Overall, the landlord has established a claim for the amount of 1,036.00. I order that the landlord retain the security deposit of 325.00 and interest of \$11.51 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 \$699.49. 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 **\$699.49**.

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: December 02, 2010.

Dispute Resolution Officer