



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPR, MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with the landlord's application for an Order of Possession for unpaid rent and a Monetary Order for unpaid rent; damage or loss under the Act, regulations or tenancy agreement; authorization to retain the security deposit; and, recovery of the filing fee. Both parties appeared at the hearing and were provided the opportunity to make submissions, in writing and orally, and to respond to the submissions of the other party.

Although the tenant appeared at the hearing several minutes after the hearing commenced the tenant was informed of the testimony I had heard to that point and was provided an opportunity to respond to those submissions.

I determined that the tenant has vacated the rental unit and an Order of Possession is no longer required. Accordingly, I do not provide one with this decision. The remainder of this decision pertains to the landlord's monetary claims.

Issue(s) to be Decided

1. Has the landlord established an entitlement to unpaid rent?
2. Has the landlord established an entitlement to damage or loss under the Act, regulations or tenancy agreement?
3. Is the landlord authorized to retain the security deposit?

Background and Evidence

I was provided undisputed evidence as follows. The tenancy commenced August 1, 2008 and the tenant paid a \$1,025.00 security deposit on July 18, 2008. The tenant was required to pay rent of \$2,050.00 plus \$50.00 for parking on the 1st day of every month. The tenancy agreement provides for payment of late fees in the amount of \$25.00.

I heard that the tenant failed to pay rent for November 2010 and the landlord personally served a 10 Day Notice to End Tenancy for Unpaid Rent upon the tenant on November 7, 2010. The tenant did not pay the outstanding rent and vacated the rental unit in December 2010.



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In making this application the landlord was seeking to recover unpaid rent, loss of rent, parking charges and late fees for the months of November 2010 through January 2011. However, the landlord testified that work is being done in the rental unit and the landlord withdrew claims for compensation for the month of January 2011.

The tenant did not dispute the amounts owed to the landlord for the months of November and December 2010.

Analysis

Based upon the undisputed evidence before me, I am satisfied the tenancy ended November 18, 2010 pursuant to the undisputed 10 Day Notice. Since the tenant remained in possession of the rental unit until the end of December 2010 I find the landlord is entitled to compensation as follows:

Unpaid Rent – November 2010	\$ 2,050.00
Unpaid Parking – November 2010	50.00
Late fee – November 2010	25.00
Loss of Rent – December 2010	2,050.00
Loss of Parking revenue – December 2010	50.00
Filing fee	<u>50.00</u>
Total award	\$ 4,275.00

I do not award a late fee for the month of December 2010 since the tenancy agreement had come to an end in November 2010. The filing fee is limited to \$50.00 as the landlord established an entitlement to compensation of less than \$5,000.00.

I calculate that the landlord is in possession of the tenant's security deposit and accrued interest of \$1,032.02 and I authorize the landlord to retain that amount in partial satisfaction of the amounts awarded to the landlord.

I provide the landlord with a Monetary Order in the net amount of \$3,242.98 [\$4,275.00 – 1,032.02] to serve upon the tenant. The Monetary Order may be enforced in Provincial Court (Small Claims) if necessary.

Conclusion

The tenant has vacated the rental unit and I do not provide an Order of Possession with this decision.



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The landlord is entitled to recover \$4,275.00 from the tenant. The landlord been authorized to retain the tenant's security deposit and interest in partial satisfaction of the amounts awarded to the landlord and the landlord has been provided a Monetary Order for the balance of \$3,242.98 to serve upon the tenant.

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: January 11, 2011.

Residential Tenancy Branch