



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to obtain a Monetary Order for unpaid rent, an Order to keep all or part of the security deposit, a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act* (Act), regulations or tenancy agreement and to recover the cost of the filing fee.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the Act, sent via registered mail on September 10, 2010. Mail receipt numbers were provided in the landlord's documentary evidence. The tenant was deemed to be served the hearing documents on September 15, 2010, the fifth day after they were mailed as per section 90(a) of the Act.

The landlords agent appeared, gave affirmed testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*.

All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Is the landlord entitled to a Monetary Order to recover unpaid rent?
- Is the landlord entitled to keep the tenants security deposit?
- Is the landlord entitled to a Monetary Order for money owed or compensation for damage or loss?



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Background and Evidence

The landlords' agent testifies that this tenancy started on June 01, 2010. Rent for this unit was \$525.00 per month and was due on or before the 24th day of each month. The tenant paid a security deposit of \$262.50 on May 31, 2010. This was a fixed term tenancy for three months and was due to expire on August 31, 2010.

The landlords' agent testifies that the tenant signed a tenancy agreement, a move in condition inspection was conducted with her and she paid the first month's rent and security deposit. Five days after the tenancy started the landlords' agent states she received a telephone call from the tenant who told her she had changed her mind about moving into the rental unit. The landlords' agent states she told the tenant that as she had signed a tenancy agreement she was obligated to rent the unit to the end of the fixed term of the tenancy. The landlords' agent states she heard nothing else from the tenant until six weeks later when she received another telephone call in which the tenant called the landlords agent a liar.

The landlords' agent states the tenant never gave written Notice to end the tenancy and has never returned the keys to the unit or the building. The landlord states they could not take steps to re-rent the unit as the tenant had never formally told them she wanted to end the tenancy or return the keys to the unit so the landlord could have access to it.

The landlord seeks to recover unpaid rent for July and August of \$1,050.00 and late fees for these two months of \$50.00 as agreed in the tenancy agreement. The landlord served the tenant with a 10 Day Notice to End Tenancy dated August 03, 2010 with an effective date of August 13, 2010 due to \$1,100.00 in unpaid rent and late fees. The landlord also seeks the sum of \$50.00 to change the lock of the rental unit and \$25.00 to replace the building key. The landlords' agent states the landlord will settle for the sum of \$700.00

The landlord seeks to keep the tenants security deposit of \$262.50 to offset against monies owed.



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Analysis

The tenant did not appear at the hearing to dispute the landlords claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the tenant, I have carefully considered the landlords documentary evidence and affirmed testimony of the landlords' agent. Section 45 (2)(b) of the Act states a tenant may end a fixed term tenancy by giving the landlord Notice to end the tenancy on a date that is not earlier than the date specified in the tenancy agreement as the end of the tenancy. The landlords' agent has stated that the tenant never gave notice to end the tenancy and did not pay rent for July and August, 2010 nor did she return the keys to the landlord after the end of the fixed term. Consequently the landlord has established her claim for unpaid rent for July and August, 2010 to a sum of **\$1,050.00** pursuant to s. 67 of the *Act*.

The tenancy agreement between the Parties states that the tenant will be charged a sum of \$25.00 for each late rent payment. As the tenant has not paid rent for July and August, 2010 the landlord is entitled to charge the tenant the sum of **\$50.00** pursuant to s. 67 of the *Act*.

The Residential Policy Guidelines #1 state a tenant must return all keys to the landlord at the end of the tenancy. As the tenant has failed to do this the landlord is entitled to charge the tenant the cost of new locks to the rental unit of **\$50.00** and for a new key to the building at **\$25.00** pursuant to s. 67 of the *Act*.

The landlord is therefore entitled to a monetary award to the sum of \$1,175.00 and I Order the landlord to keep the tenants security deposit of \$262.50 in partial satisfaction of the amount owed.

The landlord would therefore be entitled to recover the sum of \$912.50 from the tenant after the security deposit has been deducted; however the landlords' agent states the landlord will settle for the sum of \$700.00 as claimed on the application. The landlord is also entitled to recover the \$50.00 filing fee from the tenant pursuant to s. 72(1) of the *Act*.



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Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$750.00**. The order must be served on the respondent and is enforceable through the Provincial Court 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: January 10, 2011.

Residential Tenancy Branch