

DECISION

Dispute Codes MNR, MNSD, MNDC, FF

Introduction

This is an application by the Landlord for a monetary order for unpaid rent or utilities, for keep all or part of the pet damage deposit or security deposit, for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement and the recovery of the filing fee.

The Landlord attended the hearing by conference call and gave undisputed affirmed testimony. The Tenant did not attend.

The Landlord stated at the beginning of the hearing that there was no unpaid rent and that the outstanding utilities were paid prior to the hearing date.

Issue(s) to be Decided

Is the Landlord entitled to a monetary order to keep all of the security deposit and for compensation for loss under the Act, regulation or tenancy agreement?

Background and Evidence

The Landlord states that the Tenant was served by registered mail with the notice of a hearing and evidence documents.

This tenancy started on February 1, 2010 on a 1 year fixed term tenancy. The monthly rent was \$925.00 payable on the 1st of each month. The Tenant paid a security deposit of \$462.50 at the beginning of the tenancy.

The Landlord is seeking a monetary order for loss of income from a lack of notice by the Tenant. The Landlord has provided a notice of intent to vacate dated August 17, 2010 with a move-out date of September 30, 2010. The Landlord cites section 2.10 Ending the Tenancy, it reads:

- b) If the Tenant breaches a material term of this Tenancy Agreement or fails to take possession of the premises or has abandoned or vacated the premises before the expiry of the tenancy created by this agreement, the Landlord may treat this Tenancy Agreement as being at an end. **In such events, a sum equal to one month's rent shall be paid by the Tenant to the Landlord as liquidated damages, and not as a penalty, to cover the administration costs**

of re-renting the Premises. Should the suite be immediately re-rented, so that no rental income is lost, the liquidated damages shall be reduced to \$300.00 to cover said costs of administration. The Landlord and the Tenant acknowledge and agree that the payment of the said damages shall not preclude the Landlord from exercising any further right of pursuing another remedy available in law or in equity including but not limited to damages to the Premises and damages as a result of the loss of rental income due to the Tenant's breach of the terms of this Tenancy Agreement.

Analysis

Based upon the undisputed affirmed testimony of the Landlord I find that the Tenant was properly served by registered mail of the notice of hearing and evidence documents.

I am satisfied that the Landlord has proven that the Tenant has breached the lease agreement and that the Landlord was unable to re-rent the unit. The Landlord has established a claim of \$925.00 as stipulated in the signed tenancy agreement. The Landlord is also entitled to the recovery of the \$50.00 filing fee. I order that the Landlord retain the \$462.50 security deposit in partial satisfaction of the claim and I grant the Landlord an order under section 67 for the balance due of \$512.50. 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 \$512.50.

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*.

Dated: February 15, 2011.

Residential Tenancy Branch