



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MND, MNR, MNDC, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord seeking a Monetary Order for unpaid rent, for damage to the unit, for money owed or compensation for damage or loss under the Act, and to recover the cost of the filing fee from the Tenant.

The parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence **relevant** to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Is the Landlord entitled to a Monetary Order under sections 67 and 72 of the *Residential Tenancy Act* (the "Act")?

Background and Evidence

This tenancy began on August 15, 2008, on a month to month basis, monthly rent was \$1,300.00, payable on the first day of the month and a security deposit of \$650.00 was paid in September 2008. The tenancy ended sometime in February 2009.

The Landlord's claim is for the following:

Feb 2009 rent	\$1,300.00
Mar 2009 rent	\$1,300.00
Cleaning	\$84.00
Filing fee	\$50.00
Total	\$2,734.00

In support of his claim, I heard testimony from the Landlord that the Tenant left the premises without notice in mid February 2009. The Landlord testified that efforts were

made to re-rent the rental unit for March, such as online and newspaper advertising, but the efforts were unsuccessful, causing him to lose rent for the month of March 2009.

The Landlord testified that the Tenant left the rental unit dirty, causing him to incur expenses in cleaning.

In response, the Tenant acknowledged he owed rent for February 2009, but denied he gave improper notice due to the conversations he had with the property manager.

The Tenant denied leaving the rental unit dirty and stated that he left the rental unit immaculately clean.

Analysis

Based on the testimony, evidence, photographs and a balance of probabilities, I find as follows:

When making a claim for damages under a tenancy agreement or the *Act*, the party making the allegations has the burden of proving their claim. Proving a claim in damages requires that it be established that the damage or loss occurred, that the damage or loss was a result of a breach of the tenancy agreement or *Act*, verification of the actual loss or damage claimed and proof that the party took all reasonable measures to mitigate their loss.

The Tenant acknowledged he owed the rent for February 2009; therefore I **approve** the Landlord's claim for **\$1,300.00**.

As to the Landlord's claim for lost rent for March 2009, I find the Landlord did not submit sufficient documentary evidence that he took the necessary steps to mitigate his claimed loss by advertising and marketing of the rental unit. Therefore in the absence of proof from the Landlord, I **dismiss** his claim for **\$1,300.00** for the March 2009 rent.

As to the Landlord's claim for cleaning of the rental unit, I find the Landlord did not submit sufficient documentary evidence of the condition of the rental unit which required cleaning. The Tenant contradicted the Landlord's testimony as to the state of the rental unit. Therefore in the absence of independent proof from the Landlord, I **dismiss** his claim for **\$84.00** for cleaning.

I find that the Landlord has succeeded in large part and that he should recover the filing fee from the Tenant.

I allow the Landlord to retain the security deposit in partial satisfaction of the claim.

Monetary Order – I find that the Landlord has established a monetary claim and is entitled to a monetary order as follows:

Unpaid rent for February 2009	\$1,300.00
Filing Fee	\$50.00
Subtotal	<u>\$1,350.00</u>
Less security deposit paid	<u>\$650.00</u>
TOTAL Monetary Order In Favour Of The Landlord	\$700.00

The Landlord is hereby granted a monetary Order in the amount of **\$700.00**. This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

Pursuant to Section 67 of the Act, the Landlord is granted a monetary Order for \$700.00.

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 28, 2011.

Residential Tenancy Branch