



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes: *MNR, MND, FF*

Introduction

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for a monetary order for loss of income, cleaning and painting costs and the filing fee. The hearing was conducted as a face to face hearing.

The landlord testified that she served the notice of hearing by registered mail to the tenant, at the forwarding address provided by the tenant. The landlord filed a tracking number. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord entitled to a monetary order for loss of income, cleaning and painting costs and for the filing fee?

Background and Evidence

The landlord testified that the tenancy started on October 04, 2009 for a fixed term ending on August 04, 2010. The monthly rent was \$1,250.00 payable on the first day of each month. The landlord stated that she rents her basement to students who attend a university that is located close to the rental unit. The landlord lives on the upper level.

The landlord stated that renters are available for the term of the scholastic year which starts in September and ends in July. Therefore, as a practice, the landlord enters into a fixed term tenancy to ensure that she has rental income for this period.

The tenant ended the tenancy prior to the end of the fixed term and the landlord stated that she was unable to find a replacement for the balance of the term. The landlord is claiming loss of income for June, July and August 2010.

The landlord is also claiming \$83.80 for the tenant's unpaid telephone bill, \$100.00 for the cost of painting and \$100.00 for the cost of cleaning the stove and carpet. The landlord did not file any evidence to support her claim, prior to the hearing. During the hearing, the landlord presented a telephone bill as proof of the amount that the tenant owes her. In the absence of the tenant, I did not accept this evidence.

The landlord is claiming the following:

1.	Loss of income for June, July and August 2010	\$3,750.00
2.	Painting	\$100.00
3.	Cleaning	\$100.00
4.	Telephone bill	\$83.80
5.	Filing fee	\$50.00
	Total	\$4,083.80

Analysis

Section 45(2) of the *Residential Tenancy Act* states that a tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that:

- (a) Is not earlier than one month after the date the landlord receives the notice
- (b) Is not earlier than the date specified in the tenancy agreement as the end of the tenancy and
- (c) Is the day before the day in the month on which the tenancy is based that rent is payable under the tenancy agreement.

In this case, the tenant moved out on June 03, 2010, prior to the end date of the fixed term tenancy, thereby causing the landlord to suffer a loss of income for June and July.

The landlord has applied for loss of income for three months. Since the end date of the fixed term tenancy was August 04, 2010, I find that the landlord is not entitled to loss of income for August. The landlord rents primarily to students and therefore, I accept her testimony that she was unable to find a renter for the last two months of the school semester. Pursuant to section 45, the tenant must pay rent for June and July 2010 in the amount of \$2,500.00.

I find that the landlord has not proven her claim for the outstanding telephone bill, painting and cleaning. Therefore this portion of the landlord's application is dismissed. Since the landlord has proven the remainder of her case, she is entitled to the filing fee of \$50.00.

Overall the landlord has established a claim of \$2,550.00. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for this amount. 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 **\$2,550.00**.

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: April 04, 2011.

Residential Tenancy Branch