



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MND, MNR, MNSD, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for unpaid rent/loss of revenue - Section 67;
2. A Monetary Order for damage to the unit – Section 67;
3. An Order to retain the security / pet deposit - Section 38;
4. An Order to recover the filing fee for this application - Section 72.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing.

The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on April 1, 2010 for a one year term with an end date of March 31, 2011. Rent in the amount of \$1,000.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$500.00. A move-in inspection was completed with the Landlord and Tenant on March 29, 2010. The Tenant gave notice and moved out of the

unit on January 31, 2011 prior to the end of the term. A move-out inspection was completed with the Landlord and Tenant on January 31, 2011 and noted cleaning and repairs were required. The Tenant agreed with the noted condition of the unit. The Landlords re-rented the unit to new tenants for March 1, 2011.

The Landlord claims costs as follows for cleaning and repairing the unit and submitted bills as follows:

- broken window: \$125.44
- Cleaning costs: \$234.00
- carpet cleaning \$168.00.
- repairing a hole in the wall: \$100.00
- garbage removal: \$300.00.

The bills submitted by the Landlord for the wall repair and garbage removal are formatted nearly identically, do not contain complete or any contact information for the person identified as the bill's author, are not signed and contain no reference to a tax number. The Landlord acknowledged at the Hearing that the bills appear questionable but that the work was carried out as noted in the bills.

No bill was submitted for the replacement of a toilet handle however the Landlord claims \$10.00 on this item.

The Landlord claims lost rental income for February 2011 in the amount of \$1,000.00 and a liquidated damages charge of \$300.00 for re-renting the unit. The re-rent charge is contained in the lease agreement and states "If the tenant terminates the agreement before the end of the original term, the Landlord may, at the Landlord's option, treat his Tenancy Agreement as being at an end. In such event, the sum of \$300.00 shall be paid by the Tenant to the Landlord as liquidated damages . . .".

The quantum of the Landlord's monetary claim is **\$2,237.44**

Analysis

The Tenant signed a lease with a term ending March 31, 2011 but moved out on January 31, 2010. The Landlord claimed lost rental income as a result of the early end

of the tenancy and also claimed an amount for liquidated damages. As the Landlord has chosen to make a claim for lost rental income as opposed to accepting the end of the tenancy on January 31, 2011 and as the liquidated damages clause only operates when the Landlord accepts an end of the tenancy, I dismiss the Landlord's claim for liquidated damages. As the Landlord was not able to re-rent the unit until March 1, 2011, I find that the Landlord has established a claim for lost rental income for the month of February 2011 and is eligible for a monetary award in the amount of **\$1,000.00**.

Given the receipted costs for cleaning of the unit and carpets and repair of the broken window, I find that the Landlord has established these claims and is eligible for a monetary award in the amount of **\$527.44** ($\$125.44 + 234.00 + 168.00 = \524.00).

In relation to the bills submitted by the Landlord for repairing the hole in the wall and for garbage removal, given the similarities in format and deficiencies in typical business information, I find that these bills are not genuine. Although the Landlord states that the work was carried out as noted in the bills, given the finding that the bills are not genuine, I cannot find that the work was genuinely done and dismiss the Landlord's claims for these costs.

As the Landlord has established a monetary claim in the amount of \$1,527.44, the Landlord is also entitled to recovery of the \$50 filing fee, for a total entitlement of **\$1,577.44**. The **security deposit** will be off-set from the award made herein.

Calculation for Monetary Order

Cleaning costs	\$527.44
Loss of rent revenue	1,000.00
Filing Fees for the cost of this application	50.00
Less Security Deposit and interest <i>to date</i>	-500.00
Total Monetary Award	\$1,077.44

Conclusion

I order that the Landlord retain the **deposit** and interest of \$500.00 in partial satisfaction of the claim and I grant the Landlord an order under Section 67 of the Act

for the balance due of **\$1,077.00**. If necessary, this order may be filed in the Small Claims Court and enforced 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: April 20, 2011.

Residential Tenancy Branch