



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, MNDC

Introduction

This hearing was convened in response to an application filed by the landlord seeking a monetary order for damages, unpaid rent and seeking to retain the security deposit and recover the filing fee paid for this application.

Both parties appeared at the hearing and gave evidence under oath.

Issue(s) to be Decided

Is the landlord entitled to the Orders sought?

Background and Evidence

The landlord says the tenant provided late notice October 3, 2011 that she intended to vacate on October 31, 2011. The tenant agreed to a deduction of \$50.00 from her security deposit for paint damage but will not agree to pay rent for November 2011. The landlord testified that the availability of the rental unit was not advertised. The landlord is requesting \$830.00 for rental loss for November and \$50.00 for paint damage as well as recovery of the filing fee.

The tenant says she paid her rent until the end of her tenancy in October. The tenant says she was provided with paint with which to touch up marks in the rental unit but the colour was wrong.

Analysis

In the move-out inspection the tenant agreed to allow the landlord to retain \$50.00 for paint. I will therefore allow the landlord to retain \$50.00 from the security deposit as agreed. However, while the landlord is claiming loss of revenue for November 2011 the landlord has supplied insufficient evidence of mitigation. In fact the landlord testified that the availability of the rental unit was not even advertised until after November 2011.

As the evidence shows that the landlord made little or no effort to mitigate his/her damages, I decline to award loss of revenue as claimed.

The landlord holds a security deposit of \$450.00 the landlord is instructed to deduct \$50.00 from the security deposit and return the balance (\$400.00) to the tenant forthwith. As the landlord has been unsuccessful in their claim save for that which the tenant had already agreed to pay, I will not award recovery of the filing fee to the landlord.

Conclusion

The tenant is provided with an Order in the above terms and the landlord must be served with a copy of this Order as soon as possible. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: January 12, 2012.

Residential Tenancy Branch