

## **DECISION**

Dispute Codes      MNDC, O

### **Introduction**

This is an application filed by the Tenant for a monetary order for the return of pre-paid rent of \$905.00 consisting of \$860.00 rent, \$45.00 for parking and laundry and \$500.00 for damages and \$50.00 for the recovery of the filing fee.

Both parties attended the hearing and have made detailed reference to each of the evidence packages submitted. As such, I find that both parties have been properly served with the notice of hearing and evidence packages.

At the beginning of the hearing, the Tenant clarified that the \$500.00 was an arbitrary amount being sought for punitive damages. Residential Tenancy Branch Policy Guideline #16 states, "An arbitrator does not have the authority to award punitive damages, to punish the respondent." As such, this portion of the Tenant's claim is dismissed.

### **Issue(s) to be Decided**

Is the Tenant entitled to a monetary order?

### **Background and Evidence**

Both parties agreed that a tenancy agreement was signed by both parties on October 20, 2011 to commence on November 1, 2011 on a 1 year fixed term tenancy. The monthly rent was \$860.00 payable by the 1<sup>st</sup> of each month. No security deposit was paid. The Tenant also paid a \$45.00 amount for parking and laundry. The Landlord accepted the 1<sup>st</sup> months rent (November 2011) in advance and cashed the cheque on October 24, 2011. Both parties agreed that the Landlord received verbal notice to end the tenancy on October 22, 2011 and the Landlord requested and received written notice to end the tenancy on October 25, 2011.

The Tenant is seeking recovery of \$905.00 for the November 2011 rent. The Landlord disputes this stating that proper notice is required from the Tenant. The Landlord states that attempts to mitigate the loss were made upon being given written notice by re-renting the unit immediately.

### Analysis

I find that the Tenant has failed to establish her claim. Residential Tenancy Act Section 45 states,

#### **Tenant's notice**

45 (2) 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, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

The Tenant entered into the tenancy agreement on October 20, 2011 and gave notice in writing to the Landlord on October 25, 2011. I accept the Landlord's evidence that upon being notified that attempts to mitigate their losses were made immediately. The Landlord was able to have a new Tenant enter into a tenancy agreement on November 11, 2011 for December 1, 2011. I find that the Tenant was responsible for the November rent of \$860.00 and the \$45.00 parking and laundry fee for a total of \$905.00. The Tenant's application is dismissed without leave to reapply.

### Conclusion

The Tenant's application is dismissed without leave to reapply.

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 23, 2012.

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Residential Tenancy Branch