



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNSD, MNDC, FF

Introduction

This conference call hearing was convened in response to the landlord's application for a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, for unpaid rent, and for damage to the rental unit; to keep the security deposit; and to recover the filing fee associated with this application.

The landlord's agent participated in the hearing and provided affirmed testimony. She testified that she served the Notice of a Dispute Resolution Hearing to the tenants by way of registered mail sent on March 9th, 2012, and provided a Canada Post tracking number. The tenants did not participate and the hearing proceeded in the tenant's absence.

Issue(s) to be Decided

Is the landlord entitled to a Monetary Order, and if so for what amount?

Is the landlord entitled to keep all or part of the security deposit?

Is the landlord entitled to recover the filing fee?

Background and Evidence

The rental unit consists of an apartment in a multi-unit complex. Pursuant to a written agreement, the fixed term tenancy started on January 15th, 2011, and was to end on

February 1st, 2012. The rent was \$1400.00 per month and the tenants paid a security deposit of \$700.00.

The landlord's agent testified that the tenant gave notice to end the tenancy early by electronic correspondence on November 22nd, 2011, and that they vacated the unit during the weekend of November 26th to 27th, 2011. She stated that during the move out the male tenant had a confrontation with the next door neighbour and that he kicked the front door off its frame. The landlord's agent stated that the tenants abandoned the unit; she said that they did not leave a forwarding address and were not available to do a move out inspection.

The landlord provided a receipt for repairs, and submitted an amended monetary claim as follows:

- Loss of rental income for December 2011:	\$1400.00
- Loss of rental income for January 2012:	\$1400.00
- Damage to the rental unit:	\$1097.60
- Cleaning costs:	\$ 200.00
- Sub-total:	\$4097.60
- Less security deposit:	\$ 700.00
- Balance owed:	\$3397.60

The landlord's agent said that due to the cleaning the unit was not ready for to be re-rented immediately. She said that cleaning and painting was done throughout December, that the unit was advertised in January 2012, and that it was re-rented starting February 1st, 2012.

Analysis

I accept the landlord's undisputed testimony that he served the tenant with the Notice of Dispute Resolution in a proper manner pursuant to section 89 of the *Residential Tenancy Act*. I find that the tenant knew, or ought to have had knowledge of the date scheduled for this hearing.

Section 45(2) of the *Residential Tenancy Act* states in part that a tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that is not earlier than the date specified in the tenancy agreement as the end of the tenancy.

On the available evidence I accept that the tenants breached the contract agreement and vacated without giving proper notice. I find that the landlord is entitled to recover the loss of rental income as claimed. I also accept the evidence concerning cleaning and repairs and find that the landlord is entitled to recover these expenses.

Conclusion

The landlord established a claim of \$4097.60. I authorize the landlord to retain the tenants' \$700.00 security deposit for a balance owing of \$3397.60. Since the landlord was successful, I award the landlord recovery of the \$50.00 filing fee. Pursuant to Section 67 of the Act, I grant the landlord a Monetary Order totalling \$3447.60. This Order may be registered 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: May 14, 2012.

Residential Tenancy Branch