



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MR, MNSD, FF

Introduction

This conference call hearing was convened in response to the landlord's application for a Monetary Order for unpaid rent and damage to the rental unit; to keep the security deposit; and to recover the filing fee associated with this application.

The landlord participated in the hearing and provided affirmed testimony. She testified that she served the Notice of a Dispute Resolution Hearing to the tenant by way of registered mail sent on March 20, 2012. The landlord provided a Canada Post tracking number with attached notice that the recipient refused to accept delivery of the hearing documents. The tenant 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 a basement suite. Pursuant to a written agreement, the fixed term tenancy started on April 25, 2010, and ended April 24, 2011. The agreement was subsequently renewed for another year, ending on April 25, 2012. The rent was \$664.95

per month and the tenant paid a security deposit of \$325.00. Condition inspection reports were completed at the start and the end of the tenancy.

The landlord testified that on January 18, 2012, the tenant gave her notice to end tenancy effective February 24, 2012. She stated that she immediately advertised to re-rent, and that prospective tenants walked away due to the condition of the unit left by the tenant. The landlord stated that she was able to secure new tenants for April 2012.

In her documentary evidence, the landlord provided 29 photographs in support of her claim for damages, showing in part; holes in the walls; several areas of the unit left unclean; damaged baseboards; paint peeling in the bathroom; and damaged ceiling tiles.

The landlord provided receipts for materials and, with a labour rate of \$25.00 per hour, submitted a monetary claim as follows:

- Vacuum & steam clean carpets:	\$ 75.00
- Repair hole in bathroom:	\$ 25.00
- Repair hole in bedroom:	\$ 12.50
- Clean shower/toilet/bathroom sink:	\$ 18.75
- Clean kitchen stove:	\$ 25.00
- Repair bathroom ceiling & walls:	\$ 75.00
- Remove grease stains:	\$ 12.50
- Repair support on armoire:	\$ 12.50
- Remove car parts & automotive oil:	\$ 18.50
- Remove grease stains from walls & doors:	\$ 50.00
- Sub-total:	\$324.75
- Loss of rental income for March 2012:	\$664.95
- Total:	\$989.70

The landlord said that at the end of the tenancy, the tenant did not agree with the landlord's assessment of the condition of the unit at move-out time, but that the tenant refused to enter the unit to do the actual walk through with the landlord, merely arguing that he left it in good condition.

Analysis

I accept the landlord's undisputed testimony that she served the tenant with the Notice of Dispute Resolution in a proper manner pursuant to the *Residential Tenancy Act*. Refusing delivery of registered mail does not discharge the tenant's obligation towards the landlord. I find that the tenant 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.

Based on the landlord's oral and documentary submissions, I accept on a balance of probabilities that the tenant breached the fixed term agreement and left prematurely. I also accept the landlord's evidence concerning the damages and cleaning, and find that the landlord is entitled to recover the loss of rental income and the cost of repairs as claimed.

Conclusion

The landlord established a claim of \$989.70. I authorize the landlord to retain the tenant's \$325.00 security deposit for a balance owing of \$664.70. 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 \$714.70.

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 22, 2012.

Residential Tenancy Branch