

DECISION

Dispute Codes MNR, MNDC, MNSD, FF

Introduction

This is an application filed by the Landlord for a monetary order for unpaid rent or utilities, for money owed or compensation for damage or loss, to retain the security deposit and recovery of the filing fee.

Both parties have attended the hearing by conference call and have provided testimony. As both parties have attended and have confirmed receipt of the notice of hearing and evidence packages submitted by the other party, I am satisfied that both parties have been properly served.

Section 72 of the Act addresses **Director's orders: fees and monetary order**. With the exception of the filing fee for an application for dispute resolution, the Act does not provide for the award of costs associated with litigation to either party to a dispute. Accordingly, the Landlord's claim for recovery of litigation costs (ie. postage, photocopying, photographs) are dismissed.

It was clarified with both parties at the beginning of the hearing that the occupant, D.M., was not a Tenant and that A.B. was responsible for this Tenancy.

Issue(s) to be Decided

Is the Landlord entitled to a monetary order?

Is the Landlord entitled to retain the security deposit?

Background, Evidence and Analysis

Both parties agree that this Tenancy began on November 1, 2010 on a fixed term tenancy ending on October 1, 2011 and then thereafter on a month to month basis. D.M. was listed as an occupant and not a Tenant as shown by the signed tenancy agreement. Both parties also agreed that the monthly rent was \$1,300.00 payable on the 1st of each month and that a \$650.00 security was paid. The Landlord states that a condition inspection report for the move-in was completed with both parties on November 1, 2010, but that no move-out report was completed.

The Landlord states that the Tenant was served with a 10 day notice to end tenancy for unpaid rent for \$1,300.00 dated August 15, 2012 by posting it on the rental unit door on the same day. The Tenant has confirmed receipt of the notice and has stated that she vacated the rental unit on August 28, 2012 as stated by the effective date of the notice. The Landlord also states that another occupant, D.M. who is noted on the Tenancy Agreement also vacated the rental unit on August 28, 2012 after the Tenant. The Landlord has confirmed that possession of the rental unit on August 28, 2012. The Tenant stated in her direct testimony that she did not pay the August rent and assumed that D.M. had paid it.

I find based upon the undisputed testimony of the Landlord that the claim for \$1,300.00 in unpaid rent for August 2012 has been established.

The Landlord also seeks \$1,300.00 for the loss of rental income for September 2012 because the Tenant failed to provide notice to vacate the rental unit and that rental unit was left dirty requiring removal of junk and cleaning. The Landlord states that they were unable to re-rent the unit.

I find that the Landlord has failed to establish a claim for loss of rental income of \$1,300.00 for September 2012. The Tenants are not required to give notice to vacate the rental unit after having received a notice to end tenancy. The Landlord has failed to provide sufficient evidence that any attempts were made to mitigate the loss of September rent. This portion of the claim is dismissed.

The Landlords are claiming \$955.54 consisting of \$900.00 for paying a handyman named, "Ken" in cash for cleaning the rental house, picking up/disposal of junk throughout the rental and repair of wall damage and \$55.54 for the replacement of a smoke detector. The Tenant has not disputed this portion of the Landlord's claim and has stated that she understands after viewing the Landlord's photographic evidence. I find based upon the undisputed testimony provided that the Landlord has established a claim for this portion of the claim.

The Landlord has established a total monetary claim of \$2,255.54. The Landlord is also entitled to recovery of the \$50.00 filing fee. I order that the Landlord retain the \$650.00 security deposit and I grant the Landlord a monetary order under section 67 for the balance of \$1,605.54. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The Landlord is granted a monetary order for \$1,605.54.
The Landlord may retain the \$650.00 security deposit.

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: October 10, 2012.

Residential Tenancy Branch