



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNSD, MND, MNR, MNDC, FF

Introduction

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for a monetary order for liquidated damages, repairs, cleaning and loss of income. The landlord also applied to retain the security deposit.

The landlord testified that on November 02, 2012, he served the tenant with the notice of hearing by registered mail to the forwarding address provided by the tenant. The landlord provided a tracking number. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord entitled to his monetary claim for repairs, loss of income, liquidated damages, cleaning and to retain the security deposit?

Background and Evidence

The landlord testified that the tenancy started on February 01, 2012 for a fixed term of three years. The monthly rent was \$3,350.00 payable on the first of each month. Prior to moving in, the tenant paid a security deposit of \$1,675.00. The landlord filed a copy of the tenancy agreement that contains a clause requiring the tenant to pay liquidated damages of \$1,675.00 in the event that the tenant terminates the tenancy prior to the end date of the fixed term. The tenant is also required to pay any loss of income resulting from the breach of the tenancy agreement. A term in the agreement also requires the tenant to pay late fees and nsf fees if applicable.

The tenant is a professional soccer player. The landlord testified that in the last week of July, he received an email from the soccer club that manages the tenant's affairs. The landlord was informed that the tenancy would end on August 31, 2012. The landlord started advertising immediately and was successful in finding a tenant for November 15, 2012.

The landlord stated that the carpets were covered with pet urine stains. A screen door was broken and the outside required repair and clean up of horse manure and overgrown areas. The landlord provided photographs to support his testimony

The landlord is claiming the following:

| | | |
|----|--|--------------------|
| 1. | Rent for September to November 15, 2012 | \$8,375.00 |
| 2. | NSF and late fees | \$100.00 |
| 3. | Liquidated damages | \$1675.00 |
| 4. | Carpet replacement | \$5,311.49 |
| 5. | Repair screen door | \$130.00 |
| 6. | Repair to upper half of field | \$1,274.00 |
| 7. | Clean up of horse manure and haul away | \$900.00 |
| 8. | Clean up of paddocks and overgrown areas | \$1,600.00 |
| 9. | Filing fee | \$100.00 |
| | | \$19,465.49 |

Analysis

Based on the undisputed testimony of the landlord, I find that the landlord incurred a loss of income when the tenant failed to comply with the terms of the tenancy agreement. I find that the landlord is entitled to loss of income, nsf and late fees and liquidated damages.

The landlord provided quotes to support his claim for carpet replacement, screen door repair, repair of the upper half of the field and clean up of horse manure. The landlord has not carried out these repairs and therefore has not yet incurred the cost of doing so. Accordingly I dismiss this portion of the landlord's claim with leave to reapply.

However, the landlord has personally collected the horse manure and readied it for pick up. Therefore I will award the landlord \$450.00 for the labour he has put in to collect the horse manure. The balance of this claim to clean and haul away horse manure, in the amount of \$900.00, is dismissed with leave to reapply.

The landlord stated that he has cleaned up the paddocks and overgrown areas and had to use specialized equipment to do so. I find that the landlord is entitled to his claim of \$1,600.00.

Since the landlord's application has merit, I award the landlord the recovery of the filing fee of \$100.00

Overall the landlord has established the following claim:

| | | |
|----|--|--------------------|
| 1. | Rent for September to November 15, 2012 | \$8,375.00 |
| 2. | NSF and late fees | \$100.00 |
| 3. | Liquidated damages | \$1675.00 |
| 4. | Carpet replacement | \$0.00 |
| 5. | Repair screen door | \$0.00 |
| 6. | Repair to upper half of field | \$0.00 |
| 7. | Clean up of horse manure and haul away | \$450.00 |
| 8. | Clean up of paddocks and overgrown areas | \$1,600.00 |
| 9. | Filing fee | \$100.00 |
| | | \$12,300.00 |

I order that the landlord retain the security of \$1,675.00 and accrued interest of \$0.00 in partial satisfaction of the claim and I grant the landlord an order under section 67 of the *Residential Tenancy Act* for the balance due of \$10,625.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the landlord a monetary order in the amount of **\$10,625.00**.

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: February 05, 2013