



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MND, MNDC, MNR

Introduction

This is an application for a Monetary Order for \$3924.90 and a request for recovery of the \$50.00 filing fee.

Some documentary evidence and written arguments have been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

Respondent J.S. did not attend the hearing today however respondent J.M. admitted receipt of the Notice of Hearing and also testified that she personally hand served respondent J.S. with a copy of the Notice of Hearing and hearing package.

All testimony was taken under affirmation.

Issue(s) to be Decided

Is the landlord entitled to a monetary claim of \$3924.90?

Background and Evidence

The landlord testified that:

- The tenant signed a one-year tenancy agreement with an end of tenancy date of December 31, 2013, and with the monthly rent of \$1100.00.
- The tenants were evicted with a one-month notice for cause and vacated on April 30, 2013.
- The tenants only paid \$500.00 of the April 2013 rent.
- He ran ads and attempted to re-rent the unit however he was unable to re-rent the unit until August 15, 2013 and therefore lost a substantial amount of rental income, however he is only asking for two months lost rental revenue and has decided to abandon his claim for any further lost rental revenue.
- In the tenancy agreement the tenants had also agreed to pay \$20.00 per day when the rent was late and therefore as of May 24th there was a total of \$1080.00 in late payments outstanding.
- The tenants also left the carpets in the rental unit in need of cleaning.
- He is therefore requesting a Monetary Order as follows:

April 2013 rent outstanding	\$500.00
Two months lost rental revenue	\$2200.00
Late fees	\$1080.00
Carpet cleaning	\$144.90
Filing fee	\$50.00
Total	\$3974.90

The respondent testified that:

- She did sign a one-year fixed term tenancy with an expiry date of December 31, 2013, and monthly rent of \$1100.00.
- They were evicted by a one-month Notice to End Tenancy however her co-tenant failed to pay his portion of the rent and therefore she does agree that there is still \$500.00 outstanding for the month of April 2013.

- She also agrees to the charge for carpet cleaning.
- She does not however believe that she should have to pay \$2200.00 for loss rental revenue as she was not even living in the rental unit.

Analysis

The tenant does not dispute the following portions of the claim and therefore I allow those portions of the claim:

April 2013 rent outstanding	\$500.00
Carpet cleaning	\$144.90

I will not however allow the landlords claim for late fees of \$20.00 per day, because the Residential Tenancy Regulations only allow a late fee of \$25.00 maximum per rental payment period for late rent.

The tenants were in the rental unit from January through to the end of April 2013 and rent was late for three of those months, and therefore the landlord was entitled to a total of \$75.00 in late fees.

The tenants paid \$20.00 in late fees in the month of February 2013 and \$210.00 in late fees in the month of March 2013 for a total of \$230.00.

Therefore the tenants have overpaid late fees by \$155.00, and that amount will be deducted from any order issued.

It's also my decision that I will allow the landlords claim of \$2200.00 in lost rental revenue. The tenants signed a fixed term tenancy agreement and therefore they are liable for any lost rental revenue to the end of that agreement as long as the landlord takes reasonable steps to try and re-rent the unit.

In this case the landlord advertised the unit and attempted to re-rent it however was unable to do so until August 15, 2013 and therefore he had total lost rental revenue of \$3850.00 but is only claiming \$2200.00.

I also allow the recovery of the \$50.00 filing fee.

Therefore the total amount of the claim that I have allowed is as follows:

April 2013 rent outstanding	\$500.00
Lost rental revenue	\$2200.00
Carpet cleaning	\$144.90
Filing fee	\$50.00
Subtotal	\$2894.90
Minus late fee overpayment	\$155.00
Total	\$2739.90

Conclusion

I have issued a Monetary Order for the respondents to pay \$2739.90 to the applicant.

The remainder of this claim 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: August 28, 2013

Residential Tenancy Branch

