



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNR MNSD FF

Introduction:

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act for orders as follows:

- a) A monetary order pursuant to Sections 46 and 67;
- c) An Order to retain the security deposit pursuant to Section 38; and
- d) An order to recover the filing fee pursuant to Section 72.

SERVICE:

The tenant did not attend. The landlord gave sworn testimony that he served the tenant personally with the Application for Dispute Resolution in September before the bailiff evicted him on October 1, 2014. I find that the tenant was legally served with the documents according to sections 88 and 89 of the Act.

Preliminary Matters:

The landlord was previously awarded an Order of Possession and a Monetary Order for Rental Arrears. The landlord requests a further monetary order for rental losses.

Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that the tenant is responsible for rental loss? If so, to how much compensation has he proved entitlement? Is the landlord entitled to recover the filing fee?

Background and Evidence:

Only the landlord attended and was given opportunity to be heard, to present evidence and to make submissions. The evidence is that the tenancy commenced in January 2013, a security deposit of \$575 was paid and rent is currently \$1200 a month. In the previous direct request on September 19, 2014, the landlord received an Order of Possession effective two days after service and a monetary order for \$1200 of unpaid rent for September 2014.

The landlord requests a further monetary order for rental loss for October and November 2014. He provided evidence that the hydro meter was removed from the home by BC Hydro because of some illegal activity of the tenant. He stated that now the home is without power and he cannot re-rent it until the service can be reconnected. Information from BC Hydro indicates that will not happen for several weeks. The landlord requests a monetary order for \$2400 for rental loss that is directly attributable to the tenant's actions.

We discussed the security deposit and the provisions in section 38 of the Act concerning it so the landlord requests to retain the security deposit to offset the rental amount owing and to make application in the future for his costs, including bailiff costs and damages, once they can be ascertained. On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

Monetary Order:

The onus of proof is on the landlord to prove that the tenant is responsible for rental loss incurred by him. I find the weight of the evidence supports the landlord's testimony that the tenant through his activities caused the power to be removed from the rental unit. I find this has caused ongoing rental loss to the landlord. I find him entitled to recover \$2400 in rental loss for October and November 2014 and I give him leave to reapply for further rental loss and other damages caused by the tenant.

Conclusion:

I find the landlord is entitled to a monetary order as calculated below. I find the landlord is entitled to retain the security deposit to offset the rental amount owing and to recover filing fees paid for this application. I give the landlord leave to reapply for further rental loss and damages.

Calculation of Monetary Award:

Rental loss October & November 2014	2400.00
Filing fee	50.00
Less security deposit(no interest 2013-14)	-575.00
Total Monetary Order to Landlord	1875.00

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: November 13, 2014

Residential Tenancy Branch

