



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SIGNATURE CLUB SUITES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MNR, MNSD, MNDC, FF

Introduction

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

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

Issues to be decided

Is the landlord entitled to a monetary order for loss of income, liquidated damages, cost of cleaning the carpet and the filing fee? Is the landlord entitled to retain the security deposit?

Background and Evidence

The landlord testified that the tenancy started on May 01, 2014 for a fixed term ending October 31, 2014. The rent was \$1,165.00 payable on the first of each month. Prior to moving in, the tenant paid a security deposit of \$582.50.

The landlord filed a copy of the tenancy agreement that contains a clause regarding liquidated damages. The tenant signed the tenancy agreement and acknowledged the presence of this clause by initialling a box that was located beside the clause. The tenant agreed to pay liquidated damages of \$400.00 in the event that she ended the tenancy prior to the end date of the fixed term. The clause explains that this amount is not a penalty and will be used to cover the landlord's administration costs of re-renting the unit.

The tenant stated that she encountered problems with other occupants smoking marijuana and filed for dispute resolution on June 24, 2014. The tenant did not follow up with her application and moved out without notice on August 04, 2014. The landlord consulted her wait list and was able to find a tenant for August 07, 2014. The tenant had not paid rent for August and therefore the landlord suffered a loss of income for the first week of August. The tenant agreed that she did not provide the landlord with any notice to end the tenancy and she also agreed to cover the cost of cleaning the carpet.

The landlord is claiming the following:

1.	Loss of income for August 2014	\$259.25
2.	Liquidated damages	\$400.00
3.	Carpet cleaning	\$99.00
4.	Filing fee	\$50.00
	Total	\$808.25

Analysis

Section 45 of the *Residential Tenancy Act*, states 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 one month after the date the landlord receives the notice, is not earlier than the date specified in the tenancy agreement as the end of the tenancy, and is the day before the day in the month that rent is payable under the tenancy agreement.

Based on the sworn testimony of the both parties, I find that, on August 04, 2014, the tenant ended the tenancy prior to the end date of the fixed term. The tenant also moved out without providing any notice to the landlord. By not giving the landlord adequate notice to end the tenancy, the tenant breached the tenancy agreement. The landlord is claiming a loss of income that resulted from this breach.

Section 7 of the *Residential Tenancy Act* states that a landlord who claims compensation for loss that results from the tenant's non –compliance with the *Act*, the regulations or their tenancy agreement must do whatever is reasonable to minimize the loss.

In this case, in order to minimize the loss, the landlord made immediate efforts to re-rent the unit and was successful in finding a tenant for August 07, 2014. Therefore I find that the landlord is entitled to her claim for loss of income for the first week of August 2014 in the amount of \$259.25.

Pursuant to section 4 of the *Residential Tenancy Policy Guideline*, a liquidated damages clause is a clause in a tenancy agreement where the parties agree in advance the damages payable in the event of a breach of the tenancy agreement. In this case, the tenant signed an agreement to pay liquidated damages of \$400.00 in the event that she ended the lease prior to the end of the fixed term. Since the tenant did breach the fixed term tenancy contract, I award the landlord \$400.00 for liquidated damages.

The tenant also agreed to pay for the cost of cleaning the carpet in the amount of \$99.00. Since the landlord has proven her claim I award her the recovery of the filing fee of \$50.00.

Overall the landlord has established a claim for **\$808.25**. I order that the landlord retain the security deposit of **\$582.50** 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 **\$225.75**. 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 **\$225.75**.

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: March 04, 2015

Residential Tenancy Branch

