



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 the cost of cleaning and repairs, for unpaid rent and for loss of income when the tenant ended the fixed term tenancy prior to the end date and for the recovery of the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of the claim.

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

Issues to be decided

Is the landlord entitled to a monetary order for the cost of repairs, for unpaid rent, loss of income and for the recovery of the filing fee? Is the landlord entitled to retain the security and pet deposits?

Background and Evidence

The tenancy started on January 14, 2014 for a fixed term of one year. The monthly rent was \$1,800.00 due on the first of each month. Prior to moving in the tenant paid a security deposit of \$900.00 and a pet deposit of \$900.00.

The tenant fell behind on rent and on October 06, 2014, the landlord served the tenant with a 10 day notice to end tenancy for nonpayment of rent in the amount of \$3,700.00. The tenant agreed that he owed this amount.

The tenant did not pay rent and on or about October 10, 2014, the tenant moved out without informing the landlord. The landlord found out from a neighbour who informed him that the rental unit appeared to be unoccupied.

The landlord visited the rental unit on October 14, 2014 and found the place to be dirty and in need of repair. The landlord conducted a move out inspection and filed a copy of the report along with photographs to show the condition of the unit prior to the start of tenancy and on October 14, 2014.

During the hearing, the tenant agreed to allow the landlord to retain \$900.00 of the deposits towards the cost of cleaning and repair of the rental unit. The landlord stated that it cost a lot more but agreed to the tenant's proposal.

The landlord started looking a tenant immediately and filed copies of several pages of advertisements and responses from prospective tenants. Despite his efforts, the landlord was unable to find a tenant for the balance of the fixed term. The landlord is claiming unpaid rent in the amount of \$3, 700.00 and loss of income for the months of November, December 2014 and January 2015.

Analysis

Section 45(2) 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:

- (a) Is not earlier than one month after the date the landlord receives the notice
- (b) Is not earlier than the date specified in the tenancy agreement as the end of the tenancy and
- (c) Is the day before the day in the month on which the tenancy is based that rent is payable under the tenancy agreement.

In this case, the tenant was in a fixed term tenancy ending January 31, 2015. On October 10, 2014, he moved out without notice to end the tenancy. The landlord mitigated his losses by advertising the availability of the rental unit, but was unsuccessful in finding a tenant for the remainder of the fixed term, thereby causing him to suffer a loss of income.

Based on the testimony of both parties, I find that the landlord is entitled to his claim of \$3,700.00 for unpaid rent. I further find that the landlord has proven that he made efforts to mitigate his losses but was unsuccessful and is therefore entitled to the loss of income that he suffered in the amount of rent for November, December and January.

Since the landlord has proven his claim, he is also entitled to the recovery to the filing fee of \$100.00.

Overall the landlord has established a claim as follows:

1.	Unpaid rent	\$3,700.00
2.	Loss of income	\$5,400.00
3.	Cost of cleaning and repair	\$900.00
4.	Filing fee	\$100.00
	Total	\$10,100.00

The landlord has established a claim of \$10,100.00. I order that the landlord retain the security and pet deposits of \$1,800.00 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 \$8,300.00. 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 for the amount of **\$8,300.00**.

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: June 16, 2015

Residential Tenancy Branch

