



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, MNDC, FF

Introduction

This hearing was convened by way of conference call in response to the landlord's application for a Monetary Order for unpaid rent; for an Order permitting the landlord to keep all or part of the tenant's security deposit; for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; and to recover the filing fee from the tenant for the cost of this application.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*; served by registered mail on January 21, 2015. Canada Post tracking numbers were provided by the landlord in verbal testimony. The tenant was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

- Is the landlord entitled to a Monetary Order for unpaid rent?
- Is the landlord permitted to keep all or part of the security deposit?
- Is the landlord entitled to a Monetary Order for money owed or compensation for damage or loss?

Background and Evidence

The landlord testified that she is the tenant of this unit and sublet part of the unit to the tenant named on this application. The landlord testified she effectively became the tenant's landlord. The tenancy started on December 01, 2014 for a month to month tenancy. This was a verbal agreement between the parties. Rent was agreed at \$750.00 per month due on the 1st of each month. The tenant paid a security deposit of \$375.00 at the end of November, 2014.

The landlord testified that the tenant only lived in the unit for a few days and then went away to work. Sometime later he sent a text message to the landlord to inform her that he had broken his arm and had gone to stay at his brother's home. On December, 09, 2014 the tenant sent a text message to the landlord informing her that he was going to move into his brother's home.

The landlord testified that she advertised for a new tenant on various internet sites and at the university. The landlord had five responses to the advert and these interested parties came to view the unit; however, no one rented the unit until February 15, 2015. The landlord testified that the tenant did not fully vacate the unit by removing all his belongings until January 09, 2015 and no formal notice was given to the landlord. Due to this the landlord seeks to recover a loss of rent for January, 2015 of \$750.00.

The landlord testified that the tenant would come by the unit with short notice and take some of his belongings. The landlord testified that she was uncomfortable with this and when the landlord was going away for a weekend she changed the locks to the rental unit to prevent the tenant entering the unit. The landlord seeks to recover \$20.00 for the lock change.

The landlord requested an Order to keep the security deposit of \$375.00 to offset against the landlord's monetary claim. The landlord also seeks to recover the filing fee of \$50.00.

Analysis

In the absence of any evidence from the tenant, I have carefully considered the landlord's documentary evidence and sworn testimony before me. I refer the parties to s. 45 of the Act which states:

45 (1) *A tenant may end a periodic 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, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

I am satisfied that the tenant did not provide proper notice to end the tenancy as required under s. 45(1) of the *Act*. Furthermore s. 52(a)(b) and (c) of the *Act* states:

Form and content of notice to end tenancy

52 In order to be effective, a notice to end a tenancy must be in writing and must

(a) be signed and dated by the landlord or tenant giving the notice,

(b) give the address of the rental unit,

(c) state the effective date of the notice,

I am satisfied the tenant did not comply with s. 52. A text message is not considered to be the correct way to provide notice to end a tenancy. The tenant did not pay rent for January, 2015 and did not fully vacate the rental unit until January 09, 2015. Consequently, I find the landlord was unable to re-rent the unit for January, 2015 and the landlord is entitled to recover a loss of rent for January of **\$750.00**.

With regard to the landlord's claim to recover \$20.00 for changing the locks; the landlord testified that the locks were changed as she was uncomfortable with the tenant coming into the unit to get his belongings, particularly while the landlord was away for a weekend. If the landlord chooses to change the locks then this is her decision and not because the tenant failed to return

the keys after the tenancy ended. I find the landlord's claim to recover the cost to change the locks is therefore dismissed.

I Order the landlord to keep the security deposit of **\$375.00** in partial satisfaction of her claim for a loss of rent pursuant to s. 38(4)(b) of the *Act*. A Monetary Order has been issued to the landlord for the balance of rent. I further find the landlord is entitled to recover the **\$50.00** filing fee from the tenant pursuant to s. 72(1) of the *Act*. A Monetary Order has been issued to the landlord as follows:

Loss of rent for January, 2015	\$750.00
Filing fee	\$50.00
Less security deposit	(-\$375.00)
Total amount due to the landlord	\$425.00

Conclusion

For the reasons set out above, I grant the landlord a Monetary Order pursuant to Section 67 and 72(1) of the *Act* in the amount of **\$425.00**. This Order must be served on the Respondent and may then be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court if the Respondent fails to comply with the Order.

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 05, 2015

Residential Tenancy Branch

