



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** *OPB, MNR, MNDC, MND, MNDC, FF*

### **Introduction**

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for an order of possession and a monetary order for unpaid rent, loss of income, cost of cleaning and repairs and the filing fee. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Since the tenant moved out on September 10, 2015, the landlord withdrew his application for an order of possession. At the start of the hearing, both parties requested that the landlord's claims for the cost of cleaning and repairs be dismissed with leave to reapply. Since both parties were in agreement with this request, I dismiss the landlord's claim for damages with leave to reapply. Accordingly, this hearing only dealt with the landlord's monetary claim for unpaid rent, loss of income and the filing fee.

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 to recover unpaid rent, loss of income and the filing fee?

### **Background and Evidence**

The tenancy started in March 2015 for a fixed term of one year. The monthly rent was \$1,175.00 due in advance on the first of each month. The tenant repeatedly paid rent late and the landlord served the tenant with multiple notices to end tenancy. Each time, the tenant paid rent within five days of receiving the notice and the tenancy continued on.

The landlord alleged that the tenant did not pay rent for August and still owed this amount at the time of the hearing. The tenant was very firm in her assertions that she had paid rent for August. Upon review of the emails filed into evidence by the landlord, I determined on a balance of probabilities that it was more likely than not that rent was paid. The landlord eventually agreed that the tenant had paid rent for August 2015.

Both parties agreed that the tenant paid just \$70.00 towards rent for September 2015 and upon receipt of the notice to end tenancy, the tenant moved out on September 10, 2015. In an email to the landlord on September 14, 2015, the tenant informed the landlord that she had already moved out and had returned the keys to the building manager.

The landlord testified that he was out of town at the time the tenant moved out and therefore he started advertising for a tenant upon his return, in October 2015. He was unable to find a tenant for the months of October and November. A new tenant moved into the unit on December 01, 2015.

### **Analysis**

Based on the sworn testimony of the both parties, I accept the landlord's evidence in respect of the claim. The tenant received the notice to end tenancy for unpaid rent, on September 02, 2015 and moved out on September 10, 2015, without giving the landlord adequate notice, thereby not giving the landlord an opportunity to find a tenant for October 2015, which resulted in a loss of income.

The landlord agreed that he had received \$70.00 for September and therefore I find that the landlord is entitled to \$1,105.00 for unpaid rent for September. I further find that the landlord is entitled to the loss of income of \$1,175.00 that he suffered in October 2015.

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 the tenancy agreement must do whatever is reasonable to minimize the loss.

Regarding the landlord's claim for loss of income in November, based on the landlord's testimony, I find that even though the landlord was notified that the rental unit was vacant in the middle of September 2015, the landlord started looking for a tenant in October. Had the landlord started looking for a tenant immediately after the tenant informed him that she had moved out, the landlord may have been successful in finding a tenant for November 2015.

Based on the landlord's testimony, I find that the landlord did not make sufficient efforts to find a tenant for November 2015. Accordingly I find that the landlord did not do whatever is reasonable to minimize the loss and therefore his claim for the loss of income for November 2015 is dismissed.

Since the landlord has proven a portion of his case I award him \$50.00 towards the recovery of the filing fee of \$100.00.

Overall the landlord has established a claim for \$2,330.00 which consists of unpaid rent for September (\$1,105.00), loss of income for October (\$1,175.00) plus the recovery of the filing fee (\$50.00).

I order that the landlord retain the security deposit of \$600.00 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 \$1,730.00. 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 **\$1,730.00**.

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: April 07, 2016

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Residential Tenancy Branch