



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 928 MAIN STREET HOLDINGS LTD
and [tenant name suppressed to protect privacy]

DECISION

Code MNR, MND, MNSD, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord filed under the Residential Tenancy Act (the “Act”), for a monetary order for unpaid rent, for money owed or compensation under the Act, for an order to retain the security deposit in partial satisfaction of the claim and to recover the filing fee.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

Is the landlord entitled to a monetary order for unpaid rent?

Is the landlord entitled to monetary compensation for money owed?

Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?

Background and Evidence

The parties agreed that they entered into a fixed term tenancy which began on August 7, 2016 and was to expire on July 31, 2017. Rent in the amount of \$800.00 was payable on the first of each month. The tenant paid a security deposit of \$450.00. The tenancy ended on November 30, 2016.

The landlord claims as follows:

a.	Loss of rent for December 2016	\$ 800.00
b.	Disposal of furniture	\$ 148.57
c.	Filing fee	\$ 100.00
	Total claimed	\$1,048.57

The landlord's agent testified that the tenant breached the fixed term agreement by vacating the premises on November 30, 2016, without any prior notice. The landlord seeks to recover loss of rent for December 2016, in the amount of \$800.00.

The landlord's agent testified that the tenant did not remove all of their belonging, such as a bed and club chair. The agent stated that they had to pay to have these items removed and disposed of. The landlord seeks to recover the cost in the amount of \$148.57. Filed in evidence is a receipt.

The tenant testified that they discovered bed bugs in the rental unit and they moved out because the landlord was not addressing the problem.

The tenant testified that they read that if items are abandoned by a tenant that the landlord can dispose of the items. The tenant stated that they did abandon these items.

The landlord's agent argued that they were notified by the tenant in early November 2016, that they discovered bed bugs. The agent stated the first treatment took place on November 15, 2016. The agent stated shortly after the first treatment, the tenant discovered more bed bugs and a second treatment was required; however it needed to be approximately two weeks after the first treatment. The agent stated that second treatment was scheduled for December 6, 2016; however, the tenant had already vacated.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the landlord has the burden of proof to prove their claim

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

How to end a tenancy is defined in Part 4 of the Act.

Tenant's notice

45 (2) 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, or in the other period on which the tenancy is based,

...

In this case, the evidence of the landlord's agent was that the tenant breached the fixed term tenancy by vacating the rental unit on June 30, 2016, without prior notice.

However, under the Act the tenant was not entitled to end the tenancy prior to the date specified in the tenancy agreement. I find the tenant has breach section 45(2) of the Act as the earliest date they could have legally ended the tenancy was July 31, 2017, as stated in the tenancy agreement. Therefore, I find the landlord is entitled to recover loss of rent for December 2016, in the amount of **\$800.00**.

While I accept the rental unit had bed bugs; that is not a sufficient reason to end the tenancy as the landlord was taking reasonable and appropriate step to address the problem.

The tenant acknowledged that they abandoned personal items behind. The landlord had the right to dispose of these items; however, the landlord is entitled to recover the cost of removal and disposal from the tenant. I find the tenant breached the Act, when they did not remove their belongings from the rental unit and this caused losses to the landlord. Therefore, I find the landlord is entitled to recover the cost for removal and disposal of the tenant's belonging in the amount of **\$148.57**.

I find that the landlord has established a total monetary claim of **\$1,048.57** comprised of the above described amounts and the \$100.00 fee paid for this application.

I order that the landlord retain the security deposit of **\$450.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 of the Act for the balance due of **\$589.57**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant

Conclusion

The landlord is granted a monetary order and may keep the security deposit in partial satisfaction of the claim and the landlord is granted a formal order for the balance due.

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: January 18, 2017

Residential Tenancy Branch