



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HOMELIFE PENINSULA PROPERTY MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes FF, MND, MNDC, MNR, MNSD, O

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("Regulation") or tenancy agreement, pursuant to section 67;
- authorization to retain the tenant's security deposit in partial satisfaction of the monetary order requested, pursuant to section 38; and
- authorization to recover the filing fee for its application from the tenant, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The tenant acknowledged receipt of evidence submitted by the landlord.

Issue to be Decided

Is the landlord entitled to a monetary award for unpaid rent and for damage arising out of this tenancy?

Is the landlord entitled to retain all or a portion of the tenant's security deposit in partial satisfaction of the monetary award requested?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background, Evidence

The landlord's testimony is as follows. The tenancy began on November 1, 2015 and was to be for a fixed term that was to end on October 31, 2016, however the tenancy ended on August 31, 2016 as a result of the tenant moving out early. The tenants were obligated to pay \$1100.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$550.00 security deposit. The landlord testified that the tenant broke the lease and is responsible for the loss of revenue for two months. The landlord testified that the unit was not advertised for rental as the owners decided to sell the

property. The landlord testified that the tenant left the unit dirty and carpets were not cleaned. The landlord testified that there are outstanding late fees and NSF charges on the tenants' account.

The landlord is applying for the following:

1.	Loss Of Revenue September and October	\$2200.00
2.	Suite Cleaning	60.00
3.	Carpet Cleaning	136.50
4.	Late Fees/NSF charges	50.00
5.	Filing Fee	100.00
6.	Minus Security Deposit	-550.00
	Total	\$1996.50

The tenant gave the following testimony. The tenant testified that he agrees with all of the claims made by the landlord except for the loss of revenue for two months. The tenant testified that it was the landlords' responsibility to mitigate and minimize the loss. The tenant testified that he gave notice to move out on July 8, 2016 and that the landlord did nothing to try to rent the unit.

Analysis

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the landlord's claim and my findings around each are set out below.

Suite Cleaning, Carpet Cleaning, and Late fees/NSF charges \$246.50

The tenant does not dispute these claims; accordingly, the landlord is entitled to \$246.50.

Loss of Revenue - \$2200.00

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. The applicant must also show that they followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

In the landlords' own testimony, they conceded that "no attempts" were made to rent the unit. Based on the above, I dismiss this portion of the landlords claim.

The landlord is entitled to the recovery of the \$100.00 filing fee for a total award of \$346.50.

Conclusion

The landlord has established a claim for \$346.50. I order that the landlord retain that amount from the deposit and return the balance of \$203.50 to the tenant. I grant the tenant a monetary order pursuant to Section 67 of the Act. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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 20, 2017

Residential Tenancy Branch