



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MNSD, MNDC, FF*

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for a monetary order for loss of income, a strata fee and the filing fee. The landlord also applied to retain the security deposit in partial satisfaction of her claim.

The landlord sent a copy of her application and the notice of hearing to the tenant by registered mail on October 19, 2018, to the forwarding address provided by the tenant. The landlord provided a tracking number. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be decided

Is the landlord entitled to a monetary order for loss of income, for a strata moving fee and for the filing fee? Is the landlord entitled to retain the security deposit?

Background and Evidence

The tenancy started on September 01, 2018 for a fixed term of one year. The monthly rent was \$1,400.00 payable on the first of each month. Prior to moving in the tenant paid a security deposit of \$700.00. The landlord stated that on September 29, 2018, the tenant provided the landlord with notice to end tenancy effective October 01, 2018.

On October 01, 2018, the landlord visited the rental unit and did a move out condition inspection in the presence of the tenant. The landlord stated that the tenant returned the keys and provided the landlord with a forwarding address where he wanted to receive the security deposit. The landlord stated that she contacted the tenant a few times asking for rent for October as she was unable to find a tenant at such short notice.

The tenant did not pay rent for October 2018. A new tenant was found for November 01, 2018. The landlord is claiming the loss of income she suffered for the month of October 2018.

The landlord is also claiming \$100.00 which is the strata fee that the tenant pays when he is moving out. The landlord provided proof of having paid it herself.

Analysis

Loss of income - \$1,400.00

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.

The tenant had entered into a fixed term tenancy which would end on August 31, 2019. The tenant moved out October 01, 2018 thereby ending the tenancy prior to the end date of the fixed term. In addition, the tenant did not provide a 30-day written notice to end the tenancy. I find that the tenant breached the tenancy agreement and therefore the landlord is entitled to any loss of rent up to the earliest time that the tenant could have legally ended the tenancy.

The landlord mitigated her losses by making efforts to find a tenant and was successful in her attempts. A new tenant was found for November 01, 2018. The landlord suffered a loss of income for the October 2018. I find that she is entitled to recover this loss. Accordingly, I award the landlord her claim of \$1,400.00.

Strata fee - \$100.00

The strata council makes arrangements for tenants to move out for a fee of \$100.00. The landlord provided proof of having paid this fee. I find that the landlord is entitled to recover this cost and I award the landlord her claim of \$100.00

Filing fee - \$10.00

Since the landlord has proven her claim, she is also entitled to the filing fee.

Overall the landlord has established a claim of \$1,600.00. I order that the landlord retain the deposit of \$700.00 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 \$900.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

The landlord may retain the security deposit of \$700.00.

I grant the landlord a monetary order for **\$900.00**.

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: February 07, 2019

Residential Tenancy Branch